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International Court of Justice

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nuremberg, Germany, on 23 January 1946, 1000-1215, Lord Justice Lawrence presiding.

CAPTAIN SPRECHER: May it please the Tribunal, it is my responsibility and my privilege to present today the case on the individual responsibility of the Defendant Hans Fritsche for crimes against the peace, war crimes, and crimes against humanity as they relate directly to the common plan or conspiracy.

With the permission of the Tribunal, it is planned to make this presentation in three principal divisions:

First, a short listing of the various positions held by the Defendant Fritsche in the Nazi State.

Second, a discussion of Fritsche's conspiratorial activities within the Propaganda Ministry from 1933 through the attack on the Soviet Union.

Third, a discussion of Fritsche's connection, as a Nazi propagandist, to the atrocities and the ruthless occupation policy which formed a part of the common plan and conspiracy.

In listing Fritsche's positions, it is not intended at first to describe the functions of these positions. Later on, in describing some of Fritsche's conspiratorial acts, I shall take up the discussion of some of these positions which he held.

Fritsche's party membership and his various positions in the propaganda apparatus of the Nazi State are shown by two affidavits by Fritsche himself, Document No.2976-PS, which is already in evidence as US Exhibit 20; and Document No.3469-PS, which I offer in evidence as US Exhibit 721. Both of these affidavits have been put into the four working languages of this Tribunal.

Fritsche became a member of the Nazi Party on the 1st of May, 1933, and he continued to be a member until the collapse in 1945. Fritsche began his services with the staff of the Reich Ministry for People's Enlightenment and Propaganda -- hereinafter referred to as the Propaganda Ministry -- on the 1st of May, 1933, and he remained within the Propaganda Ministry until the

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Nazi downfall.

Before the Nazis seized political power in Germany, and beginning in September 1932, Fritsche was head of the Wireless News Service, Drahtloser Dienst, an agency of the Reich Government at that time under the government of the Defendant von Papen. After the Wireless News Service was incorporated into the Propaganda Ministry of Dr. Goebbels in May 1933, Fritsche continued as its head until the year 1938. Upon entering the Propaganda Ministry in May 1933, Fritsche also became head of the news section of the Press Division of the Propaganda Ministry. He continued in this position until 1937. In the summer of 1938, Fritsche was appointed deputy to one Alfred Ingemar Berndt, who was then head of the German Press Division.

The German Press Division, in the Indictment, is called the Home Press Division. Since "German Press Division" seems to be a more literal translation, we have called it the German Press Division throughout this presentation. It is sometimes otherwise known as the Domestic Press Division.

We shall show later that this Division was the major section of the Press Division of the Reich Cabinet.

Now, in December 1938, Fritsche succeeded Berndt as the head of the German Press Division. Between 1938 and November 1942, Fritsche was promoted three times. He advanced in title from Superior Government Counsel to Ministerial Counsel, then to Ministerialdirigent, and finally to Ministerialdirektor.

In November, 1942, Fritsche was relieved of this position as head of the German Press Division by Dr. Goebbels, and accepted, from Dr. Goebbels, a newly created position in the Propaganda Ministry, that of Plenipotentiary for the Political Organization of the Greater German Radio. At the same time he also became head of the Radio Division of the Propaganda Ministry. He held both these positions in radio until the Nazi downfall.

There are two allegations of the Indictment concerning Fritsche's position for which we are unable to offer proof. These allegations appear at page 34 of the English translation.

The first unsupported allegation states that Fritsche was "Editor-in-Chief of the official German News Agency, Deutsche Nachrichten Buero."

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The second unsupported allegation states that Fritsche was "head of the Radio Division of the Propaganda Department of the Nazi Party."

Fritsche denies having held either of these positions, in his affidavit, and therefore these two allegations must fall for want of proof.

Before discussing the documentation of the case, I wish, in passing, to state my appreciation for the assistance of Mr. Norbert Halpern, Mr. Alfred Booth, and Lieutenant Niebergall, who sits at my right, for their assistance in research, analysis, and translation.

The Tribunal will note the relative shortness of this document book. It has been marked as Document Book MM. It contains only 32 pages, which have been numbered consecutively, I believe, in red pencil for your convenience. The shortness of the documentation on this particular case is possible only because of a long affidavit made by the Defendent Fritsche, which was signed by him on the 7th of January 1946.

It seems appropriate to comment on this significant document before proceeding. It is before Your Honors as Document No.3469-PS, beginning at Document Book, page 19.

As I said, it has been translated into the four working languages of this proceeding.

Now, this Affidavit contains materials which have been extracted from interrogations of Fritsche, and many materials which Fritsche volunteered to give himself, upon request made by me, through his defense counsel, Dr. Fritz. Some of the portions of the final affidavit were originally typed or handwritten by the Defendant Fritsche himself during this trial or during the holiday recess. All these materials were finally incorporated into one single affidavit.

Now, this affidavit contains Fritsche's account of the events which led to his entering the Propaganda Ministry and his account of his later connections with that Ministry. Before Fritsche made some of the statements in the affidavit concerning the role of propaganda in relation to important foreign political events, he was shown illustrative headlines and articles from the German press at that time, so that he could refresh his recollection and make more accurate statements.

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It is believed that the Tribunal will desire to consider many portions of this affidavit, independent of this presentation, along with the proof on the conspirators' use of propaganda as a principal weapon in the conspiracy. Some of this proof, you will recall, was submitted by Major Wallis in the first days of this trial in connection with Brief E, entitled "Propaganda, Censorship and Supervision of the Cultural Activities", and the corresponding document book, to which I call the Tribunal's attention.

Now, in the Fritsche affidavit there are a number of statements which I would say were in the nature of self-serving declarations. With respect to these, the Prosecution requests only that the Tribunal consider them in the light of the whole conspiracy and the indisputable facts which appear throughout the record. The Prosecution did not feel, either as a matter of expediency or of fairness, that it should request Fritsche, through his defense lawyer, Dr. Fritz, to remove some of these self-serving declarations at this time and submit them later in connection with his defense.

Since I shall refer to this affidavit at numerous times throughout the presentation, perhaps the members of the Tribunal will wish to place a special marker in their document book.

By referring to paragraphs 4 and 5 of the affidavit, the Tribunal will note that Fritsche first became a successful journalist in the service of the Hugenberg Press,

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the most important chain of newspaper enterprises in pre-Nazi Germany. The Hugenberg concern owned papers of its own, but primarily it was important because it served newspapers which principally supported the so-called "national" parties of the Reich, including the NSDAP.

In paragraph 5 of his affidavit, Fritsche relates that in September 1932, when the Defendant von Papen was Reich Chancellor, he was made head of the Wireless News Service, replacing someone who was politically unbearable to the Papen regime. The Wireless News Service, I might say, was a government agency for spreading news by radio.

Fritsche began making radio broadcasts at about this time, with very great success, a success which Goebbels recognized and was later to exploit very efficiently on behalf of these Nazi conspirators.

Now, the Nazis seized power on the 30th of January 1933. From paragraph 10 of the Fritsche affidavit we find that that very evening, the 30th of January 1933, two emissaries from Goebbels visited Fritsche. One of them was Dressler-Andrees, head of the Radio Division of the NSDAP; the other was an assistant of Dressler-Andees named Sadila-Mantau. These two emissaries notified Fritsche that although Goebbels was angry with Fritsche for writing a critical article concerning Hitler, still Goebbels recognized Fritsche's public success on the radio since the previous fall. They stated further that Goebbels desired to retain Fritsche as head of the Wireless News Service on certain conditions: (1) That Fritsche discharge all Jews; (2) that he discharge all other personnel who would not join the NSDAP; (3) that he employ with the Wireless News Service the second Goebbel's emissary, Sadila-Mantau.

Fritsche refused all these conditions except the hiring of Sadila-Mantau. This was one of the first ostensible comrpomises after the seizure of power which Fritsche made on his road to the Nazi camp.

Fritsche continued to make radio broadcasts during this period in which he supported the national National Socialist coalition government then still existing.

In early 1933 SA troops several times called at the Wireless News Service and Fritsche prevented them, with some difficulty, from making news broadcasts.

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In April 1933 Goebbels called the young Fritsche to him for a personal audience. At paragraph 9 of his affidavit, Document No. 3469-PS, Fritsche has volunteered the following concerning his prior relationships with Dr. Goebbels:

"I was acquainted with Dr. Goebbels since 1928. Apparently he had taken a liking to me, besides the fact that in my press activities I had always treated the National Socialists in a friendly way until 1931. Already before 1933, Goebbels, who was the editor of the 'Attack' — Der Angriff — a Nazi newspaper, had frequently made flattering remarks about the form and content of my work, which I did as contributor of many 'National' newspapers and periodicals, among which were also reactionary papers and periodicals."

At the first Goebbels-Fritsche discussion in early April 1933, Goebbels informed Fritsche of his decision to place the Wireless News Service within the Propaganda Ministry as of 1 May 1933. He suggested that Fritsche make certain re-arrangements in the personnel which would remove Jews and other persons who did not support the NSDAP. Fritsche debated with Goebbels concernin some of these steps. It must be said that during this period Fritsche made some effort to place Jews in other jobs.

In a second conference with Goebbels, shortly thereafter, Fritsche informed Goebbels about the steps he had taken in reorganizing the Wireless News Service. Goebbels thereupon informed Fritsche that he would like to have him reorganize and modernize the entire news services of Germany within the controls of the Propaganda Ministry.

It will be recalled by the Tribunal that on the 17th of March 1933, approximately two months before this time, the Propaganda Ministry had been formed by decree — 1933 Reichsgesetzblatt, Part I, page 104; our document ...r 2029-PS.

Fritsche was intrigued by the Goebbels offer. He proceeded to conclude ...e Goebbels-inspired reorganization of the Wireless News Service and, on the 1st of May, 1933, together with the remaining members of his staff, he joined the Propaganda Ministry. On this same day he joined the NSDAP and took the customary oath of unconditional loyalty to the Fuehrer. From this time on,

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whatever reservations Fritsche may have had, either then or later, to the course of events under the Nazis, Fritsche was completely within the Nazi camp. For the next 13 years he assisted in creating and in using the propaganda devices which the conspirators employed with such telling effect in each of the principal phases of this conspiracy.

From 1933 until 1942 Fritsche held one or more positions within the German Press Division. For four years, indeed, he headed this Division, during those crucial years 1938 to 1942. That covers the period when the Nazis undertook actual military invasions of neighboring countries. It is, therefore, believed appropriate to spell out in some detail, before this Tribunal, the functions of this German Press Division. These functions will show the important and, indeed, unique position of the German Press Division as an instrument of the Nazi conspirators not only in dominating the minds and the psychology of Germans through the German Press Division and through the radio, but also as an instrument of foreign policy and psychological warfare against other nations.

The already broad jurisdiction of the Propaganda Ministry was extended by a Hitler decree of the 30th of June, 1933, found in 1933 Reichsgesetzblatt, Part I, page 449. From that decree I wish to quote only one sentence. It is found in Document 2030-PS, your Document Book page 3:

"The Reich Minister of Public Enlightenment and Propaganda has jurisdiction over the whole field of spiritual indoctrination of the nation, of propagandizing the State, of cultural and economic propaganda, of enlightenment of the public at home and abroad. Furthermore, he is in charge of the administration of all institutions serving those purposes."

It is important to underline the stated propaganda objective of "enlightenment at home and abroad."

For a clear exposition of the general functions of the German Press Division of the Propaganda Ministry, the Tribunal is referred to Document No. 2434-PS, Document Book page 5. It is offered in evidence as USA Exhibit 722. This document is an appropriate excerpt from a book by George Wilhelm Mueller, a Ministerial Director in the Propaganda Ministry, of which the Tribunal is asked to take judicial notices.

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Fritsche's affidavit, paragraphs 14, 15 and 16, beginning at page 22 of your Document Book, contains an exposition of the functions of the German Press Division, a description which confirms and adds to the exposition in Mueller's book.

Concerning the German Press Division, Fritzsche's affidavit states:

"During the whole period from 1933 to 1945 it was the task of the German Press Division to supervise the entire domestic press and to provide it with directives by which this division became an efficient instrument in the hands of the German State leadership. More than 2300 German dialy newspapers were subject to this control. The aim of this supervision and control, in the first years following 1933, was to change basically the conditions existing in the press before the seizure of power. That meant the coordination into the New Order of those newspapers and periodicals which were in the service of capitalistic special interests or party politics. While the administrative functions wherever possible were exercised by the professional associations and theReich Press Chamber, the political leadership of the German press was entrusted to the German Press Division. The head of the German Press Division held daily press conferences in the Ministry for the representatives of all German newspapers. Hereby all instructions were given to the representatives of the Press. These instructions were transmitted daily, almost without exception, and mostly by telephone, from headquarters by Dr. Otto Dietrich, Reich Press Chief, in a fixed statement, the so-called "Daily Parole of the Reich Press Chief." Before the statement was fixed the head of the German Press Division submitted to him -- Dietrich -- the current press wishes expressed by Dr. Goebbels and by other Ministries. This was the case especially with the wishes of the Foreign Office about which Dr. Dietrich always wanted to make decisions personally or through his representatives at the headquarters, Helmut Suendermann and chief editor Lorenz. The practical use of the general directions in detail was thus left entirely to the individual work of the individual editor. Therefore, it is by no means true that the newspapers and periodicals were a monopoly of the German Press Division or that essays and leading articles through it had to be submitted to the Ministry. Even in war times this happened in exceptional cases only. The less important newspapers and periodicals which were not represented at the daily press conferences received their information in a different way -- by providing them either with ready-made articles and reports, or with a confidential printed instruction. The publications of all other official agencies

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were directed and coordinated likewise by the German Press Division. To enable the periodicals to get acquainted with the daily political problems of newspapers and to discuss these problems in greater detail, the "Informationskorrespondenz" was issued especially for periodicals. Later on it was taken over by the Periodical Press Division. The German Press Division likewise was in charge of pictorial reporting insofar as it directed the employment of pictorial reporters at important events. In this way, and conditioned by the current political situation, the entire German Press was made a permament instrument of the Propaganda Ministry by the German Press Division. Thereby, the entire German Press was subordinate to the political aims of the Government. This was exemplified by the timely measuring and the emphatic presentation of such press polemics as appeared to be most useful, as shown for instance in the following themes: the class struggle of the system era; the leadership principle and the authoritarian state; the party and interest politics of the system era; the Jewish problem; the conspiracy of World Jewry; the Bolshevistic danger; the plutocratic Demonracy abroad; the race problem generally; the church; the economic misery abraod; the foreign policy; and living space -- lebensraum."

This description of the Fritzsche establishes clearly -- and in his own words, -indeed -- that the German Press Division was the instrument for subordinating the entire German press to the political aims of the Government.

We now pass to Fritzsche's first activities on behalf of the conspirators within the German Press Division. It is appropriate to read again from his affidavit -- paragraph 17, your document page 23. Fritzsche is describing a conference with Goebbels:

"At this time Dr. Goebbels suggested to me, as a specialist on news technique, the establishment and direction of a section "News", within the Press Division of his Ministry, in order to organize fully and to modernize the German news agencies. In executing this assignment given to me by Dr. Goebbels I took for my field the entire news field for the German Press and the radio in accordance with the directions given by the Propaganda Ministry, at first with the exception of the D.N.B., German News Agency."

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An obvious reason why the D.N.B. was excepted from Fritzsche's field at this time is that the D.N.B. did not come into existence until the year 1934. Later on, in paragraph 17 of the Fritzsche affidavit, the Tribunal will note the tremendous funds put at the disposal of Fritzsche in building up the Nazi news services. Altogether the German news agencies received a ten-fold increase in their budget from the Reich, an increase from 400,000 to 4,000,000 marks. Fritzshe himself selected and employed the Chief Editor for the Transocean News Agency and also for the Europa press. Fritzsche states that some of the "directions of the Propaganda Ministry which I had to follow were" -- and then skipping -- "increase of German news copy abroad at any cost" -- and then skipping again -- "spreading of favorable news on the internal construction and peaceful intentions of the National Socialist System."

About the summer of 1934, the defendant Funk, then Reich Press Chief, achieved the fusion of the two most important domestic news agencies, the Wolff Telegraph Agency and the Telegraph Union, and thus formed the official German news agency, ordinarily known as D.N.B. It has already been pointed out to the Tribunal that the indictment is in error in alleging that Fritzshe himself was Editor-in-Chief of the D.N.B. Fritzsche held no position whatsoever with the D.N.B. at any time. However, as head of the news section of the German Press Division, Fritzsche's duties gave him official jurisdiction over the D.N.B., which was the official domestic news agency of the Reich after 1934. In the last part of paragfaph 17 of this affidavit, Fritzshhe states that he coordinated the work of the various foreign news agencies "within the inland Europe and overseas foreign countries with each other and in relationship to D.N.B."

The Wireless News Service was headed by Fritzsche from 1930 to 1937. After January, 1933, the Wireless News Service was the official instrument of the Nazi government in spreading news over the radio. During the same time that Fritzsche headed the Wireless News Service, he personally made radio broadcasts to the German people. These broadcasts were naturally subject to the controls of thePropaganda Ministry and reflected its purposes. The influences of Fritzsche's broadcasts to the German people, during this period of consolidation of control by the Nazi conspirators, is all the more

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important since Fritzsche was concurrently head of the Wireless News Service, which controlled the spreading of all news by radio.

It is by now well known to the world that the Nazi conspirators attempted to be -- and often were -- very adept in psychological warfare. Before each major aggression, with some few exceptions based on the strategy of expediency, they initiated a press campaign calculated to weaken their victims and to prepare the German people psychologically for this Nazi madness. They used the press after their earlier conquests as a means for further influencing foreign politics and in maneuvering for the next following aggression.

By the time of the occupation of the Sudetenland on the 1st of October, 1938, Fritzsche had become deputy head of the entire German Press Division. Fritzsche states that the role of German propaganda before the Munich Agreement on the Sudetenland was

directed by his immediate chief, Berndt, head of the German Press Division, In paragraph 27 of the Fritzsche affidavit, page 26 of your document book, Fritzsche describes this propaganda. Speaking of Berndt, Fritzsche states:

"He exaggerated minor events very strongly, used sometimes old episodes as new -- and there even came complaints from the Sudetenland itself that much of the news reported by the German press was untrustworthy. As a matter of fact, after the great foreign political success at Munich in September, 1938, there came a noticeable crisis in confidence of the German people in the trustworthiness of its press. This was one reason for the recalling of Berndt, in December 1938 after the conclusion of the Sudeten action and for my appointment as head of the German Press Division. Beyond this, Berndt, by his admittedly successful but still primitive military-like orders to the German Press, had lost the confidence of the German editors."

Now, what happened at this time? Fritzsche was made head of the German Press Division in place of Berndt. Between December, 1938 and 1942, Fritzsche, as head of the German Press Division, personally gave to the representatives of the principal German newspapers the "daily parole of the Reich Press Chief." During this history-making period he was the principal conspirator directly concerned with the manipulations of the press. The first important foreign aggression after Fritzsche became head of the German Press Division was the incorporation of Bohemia and Moravia. In paragraph 28, your document book page 26, Fritzsche gives his account of the propaganda action surrounding the incorporation of Bohemia and Moravia as follows:

"The action for the incorporation of Bohemia and Moravia, which took place on 15 March 1939, while I was head of the German Press Division, was not prepared for such a long period as the Sedeten action. According to my memory it was in February that I received the order from the Reich Press Chief, Dr. Dietrich, which was repeated as a request by the envoy Paul Schmidt of the Foreign Office, to bring the attention of the press to the efforts for independence of Slovakia and to the continued anti-German coalition politics of the Prague government. I did this. The daily paroles of the Reich Press Chief and the press conference minutes at that time show the wording of the corresponding instructions. These were the typical headlines of leading newspapers and the emphatic leading articles of the German daily press at that time: (1) the terrorizing of Germans within the Czech territory by arrest,

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shooting of Germans by the state police, destruction and damaging of German homes by Czech gangsters; (2) the concentration of Czech forces on the Sudeten frontier; (3) the kidnapping, deporting and persecuting of Slovakian minorities by the Czechs; that the Czechs must get out of Slovakia; (4) secret meetings of Red functionaries in Prague. Some few days before the visit of Hacha, I received the instruction to publish in the press very emphatically the incoming news on the unrest in Czechoslovakia. Such information I received only partly from the German News Agency, D.N.B. Mostly it came from the Press Division of the Foreign Office and some of it came from big newspapers with their own news services. Among the newspapers offering information was above all the Voelkischer Beobachter which, as I learned later on, received its information from the SS Standartenfuehrer Gunter D'Alquen. He was at this time in Pressburg. I had forbidden all news agencies and newspapers to issue news on unrest in Czechoslovakia before I had seen it. I wanted to avoid a repetition of the very annoying results of the Sudeten action propaganda, and I did not want to suffer a loss of prestige caused by untrue news. Thus, all news checked by me was admittedly full of tendency -- voller tendenz -- however, not invented. After the visit of Hacha in Berlin and after the beginning of the invasion of the German Army, which took place on 15 March 1939, the German press had enough material for describing those events. Historically and politically the event was justified with the indication that the declaration of independence of Slovakia had required an interference and that Hacha with his signature had avoided a war and had reinstated a thousand-year union betwee Bohemia and the Reich."

The propaganda campaign of the press preceding the invasion of Poland on the 1st of September, 1939, and thus the propaganda action just preceding the precipitation of World War II, bears again the handiwork of Fritzsche and his German Press Division. In paragraph 30 of Fritzsche's affidavit, documen book page 27, Fritzsche speaks of the conspirators' treatment of this episode as follows:

Very complicated and changing was the press and propagandistic treatment in the case of Poland. Under the influence of the German-Polish agreement, it was generally forbidden in the German press for many years to publish anything on the situation of the German minority in Poland. This remained also the case when in the Spring of 1939 the German press was asked to become

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somewhat more active as to the problem of Danzig. Also, when the first Polish-English conversations took place and when, the German press was instructed to use a sharper tone against Poland, the question of the German minority still remained in the background. But during the summer this problem was picked up again and created immediately a noticeable sharpening of the situation, namely, each larger German newspaper had for quite some time an abundance of material on complaints of the Germans in Poland without the editors having had a chance to use this material. The German papers from the time of the minority discussion at Geneva, still had correspondents or free collaborators in Kattewitz, Bromberg, Posen, Thorn, etc. Their material now came forth with a bound. Concerning this the leading German newspapers, upon the basis of directions given out in the so-called "daily parole" brought out the following publicity with great emphasis: (1) cruelty and terror against Germans and the extermination of Germans in Poland; (2) forced labor of thousands of German men and women in Poland; (3) Poland, land of servitude and disorder; the desertion of Polish soldiers; the increased inflation in Poland; (4) provocation of frontier clashes upon direction of the Polish Government; the Polish lust to conquer; (5) persecution of Czechs and Ukranians by Poland. The Polish Press replied particularly sharply."

The press campaign preceding the invasion of Yugoslavia followed the conventional pattern. You will find the customary definitions, the lies, the incitement and the threats and the usual attempt to divide and to weaken the victim. Paragraph 32 of the Fritzsche affidavit, your document book page 28, outlines this propaganda action as follows:

"During the period immediately preceding the invasion of Yugoslavia, on the 16th of April 1941, the German press emphasized by headlines and leading articles the following topics: (1) the planned persecution of Germans in Yugoslavia including the burning down of German villages by Serbian soldiers; also the confining of Germans in concentration camps and also the physical mishandling of German-speaking persons; (2) the arming of Serbian bandits by the Serbian Government; (3) the incitement of Yugoslavia by the plutocrats against Germany; (4) the increasing anti-Serbian feeling in Croatia; (5) the chaotic economic and social conditions in Yugoslavia."

Since Germany had a non-aggression pact with the Soviet Union, and because these conspirators wanted the advantage of surprise, there was no

special propaganda campaign immediately preceding the attack on the U.S.S.R. Fritzschein paragraph 33 of his affidavit discusses the propaganda line, however, for the justification of this war -- this aggressive war -- to the German people:

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"During the night from the 21st to the 22nd of June 1941, Ribbentrop called me in for a conference in the Foreign Office Building at about 5 o'clock in the morning, at which representatives ot the domestic and foreign press were present. Ribbentrop informed us that the war against the Soviet Union would start that same day and asked the German press to present the war against the Soviet Union as a preventative war for the defense of the Fatherland, as a war which was forced upon us through the immediate danger of an attack of the Soviet Union against Germany. The claim that this was a preventative war was later repeated by the newspapers which received their instructions from me during the usual daily parole of the Reich Press Chief. I, myself, have also given this presentation of the cause of the war in my regular broadcasts."

Fritzsche, throughout his affidavit, constantly refers to his technical and expert assistance to the colossal apparatus of the Propaganda Ministry. In 1939 he apparently became dissatisfied with the efficiency of the existing facilities of the German Press Division in furnishing grist for the propaganda mill and its intrigues. He established a new instrument for improving the effectiveness of Nazi propaganda. In paragraph 19 of his affidavit, page 24 of our document book, Fritzsche describes this new propaganda instrument as follows:

"About the summer of 1939 I established within the German Press Division a section called 'Speed-Service." And then skipping and quoting again "At the start it had the task of checking the correctness of news from foreign countries. Later on, about the Fall of 1939, this section also elaborated on collecting materials which were put at the disposal of the entire German press. For instance, dates from the British Colonial policy, from political statements of the British Prime Minister in former times, descriptions of social distress in hostile countries, etc. Almost all German newspapers used such material as a basis for their polemics. Hereby was achieved a great unification within the fighting front of the German press. The title "Speed Service" was chosen because materials for current comments were supplied with unusual speed".

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Throughout this entire period preceding and including the launching of aggressive wars, Fritzsche made regular radio broadcasts to the German people under the program titles of "Political Newspaper Review", "Political and Radio Show", and later "Hans Fritzsche Speaks". His broadcasts naturally reflected the polemics and the controls of his Ministry and thus of the Common Plan or Conspiracy.

We of the Prosecution contend that Fritzsche, one of the most eminent of Goebbel's propaganda team, helped substantially to bathe the world in the blood bath of aggressive war.

With the Tribunal's consent I will now pass to proof bearing on Fritzsche's incitement of atrocities and his encouragement of a ruthless occupation policy. The results of propaganda as a weapon of the Nazi conspirators reaches into every aspect of this conspiracy, including the abnormal and inhuman conduct in the atrocities and the ruthless exploitation of occupied countries. Most of the ordinary members of the German nation would never have participated in or tolerated the atrocities committed throughout Europe if they had not been conditioned and goaded to barbarous convictions and misconceptions by the constant grinding of the Nazi propaganda machine. Indeed, the propagandists who lent themselves to this evil mission of instigation and incitements are more guilty than the credulous and callous minions who headed the firing squads or operated the gas chambers, of which we have heard so much in this proceeding. For the very credulity and callousness of these minions was in large part due to the constant and evil propaganda of Fritzsche and his official associates.

With respect to Jews, the Department of Propaganda within the Propaganda Ministry had a special branch for the "Enlightenment of the German people and of the world as to the Jewish question, fighting with propagandistic weapons against enemies of the State and hostile ideologies." This quotation is taken from a book written in 1940 by Ministerial Director Mueller, entitled "The Propaganda Ministry." It is found in Doc. No. 2434-PS, our Doc. Book, p. 10, offered as U.S. Exhibit 722. In mentioning that document, your Honors, I should have said Document No. 2434 (A) PS. It is

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another excerpt from Ministerial Director Mueller's book and I merely ask that you take judicial notice of it for that one sentence that I have read.

Fritzsche took a particularly active part in this "enlightenment" concerning the Jewish question in his radio broadcasts. These broadcasts literally teemed with provocative libels against Jews, the only legal result of which was to inflame Germany to further atrocities against the helpless Jews who came within its physical power. Doc. No. 3064-PS contains a number of complete broadcasts by Fritzsche which were monitored by the British Broadcasting Corporation and translated by BBC officials. For the convenience of the Tribunal I have had those excerpts upon which the prosecution relies to show illustrative types of Fritsche's broadcasts, mimeographed and made into one document, which I offer into evidence as US Exhibit 723. Even the defendant Streicher, the master Jew-baiter of all time, could scarcely outdo Fritzsche in some of his slanders against the Jews. All the excerpts in Doc. No. 3064-PS are from speeches of Fritzsche given on the radio between 1941 and 1945, which we have proven was a period of intensified anti-Jewish measures. With the permission of the Tribunal, I would like to read some of these excerpts:

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Page 14 of our document book, Item 1. Fraom a broadcast of 18 December 1941: It is found on page 2122 of the translations from BBC:

"The fate of Jewry in Europe has turned out as unpleasant as the Fuehrer predicted in the case of a European war. After the extension of the war instigated by Jews, this unpleasant fate may also spread to the New World, for you can hardly assume that the nations of this New World will pardon the Jews for the misery of which the nations of the Old World did not absolve them.'

From a radio broadcast of 18 March 1941, found at page 2032 of the BBC translations:

"But the crown of all wrongly-applied Rooseveltian logics is the sentence 'There never was a race and there never will be a race which can serve the rest of mankind as a master.' Here too we can only applaud Mr. Roosevelt. Precisely because there exists no race which can be the master of the rest of mankind, we Germans have taken the liberty to break the domination of Jewry and of its capital in Germany, of Jewry which believed to have inherited the Crown of secret world domination."

In passing, I would merely like to note that it seems to us that that is not only a cause for past acts concerning persecution of Jews but an announcement that more is coming and an encouragement of what was coming.

I would like to read another excerpt from the 9th of October 1941 broadcast, translated at page 2101 of the BBC translation:

"We know very well that these German victories, unparalleled in history, have not yet stopped the source of hatred, which, for a long time, has fed the war mongers and from which this war originated. The international Jewish-Democratic Bolshevistic campaign of incitement against Germany still find cover in this or that fox's lair or rat-hole. We have seen only too frequently how the defeats suffered by the war mongers only doubled their senseless and impotent fury."

Another broadcast of the 8th January 1944. Your Honors, I have tried to pick out illustrative broadcasts from different periods here.

"It is revealed clearly once more that not a system of Government, not a young nationalism, not a new and well applied Socialism brought about this war.

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The guilty ones are exclusively the Jews and the Plutocrats. If discussion on the post-war problems bring this to light so clearly, we welcome it as a contribution for later discussions and also as a contribution to the fight we are waging now, for we refuse to believe that world history will confide its future developments to those powers which have brought about this war. This clique of Jews and Plutocrats have invested their money in armaments and they had to see to it that they would get their interests and sinking funds, hence they unleased this war."

Concerning Jews, I had one last quotation from the year 1945. It is from a broadcast of 13th of January, 1945, found on pages 2258 and 2259 of the BBC translations:

"If Jewry provided a link between divergent elements as Plutocracy and Bolshevism and if Jewry was first able to work successfully in the Democratic countries in proparing this war against Germany, it has by now placed itself unreservedly on the side of Bolshevism which, with its entirely mistaken slogans of racial freedom against racial hatred, has created the very conditions the Jewish race requires in its struggle for domination over other races."

And then skipping a few lines in that quotation:

"Not the last result of German resistance on the fronts, so unexpected to the enemy is the fruition of a development which began in the pre-war years, the process of subordinating British policy to far-reaching Jewish points of view. It began long before this when Jewish emigrants from Germany started their war mongering against us from British and American soil."

And then skipping several sentences and going to the last sentence on that page.

"This whole attempt aiming at the establishment of Jewish world domination, now increasingly recognisable, has come to a head at the very moment when the people's understanding of their racial origins has been far too much awakened to promise success to the undertaking."

Your Honors, we suggest that that is an invitation to further persecution of the Jews and indeed to their elimination. Fritzsche also incited and encouraged ruthless measures against the peoples of the U.S.S.R.

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In his regular broadcasts Fritzsche's incitements against the peoples of the U.S.S.R. were often linked to, and were certainly as inflammatory as, his slanders against the Jews. If these slanders were not so tragic in their relation to the murder of millions of people, they would be comical, indeed ludicrous. It is ironic, indeed, that the propaganda libels against the peoples of the U.S.S.R. concerning atrocities actively described some of the many atrocities committed by the German invaders, as we now well know. The following quotations are again taken from the BBC intercepted broadcasts and their translations, beginning shortly after the invasion of the U.S.S.R. in June 1941 The first one is taken again from page 16 of our Document Book and I will read only the last half of item 7, beginning with the 3rd paragraph:

"The evidence of letters reaching us from the front, of P.K. reporters"-- and may I interrupt my quotation there to say that "P.K." stands for "Propaganda Kompanie," Propaganda Kompanies which were attached to the German Army wherever it went. -- "P.K. reporters and soldiers on leave demonstrates that, in this struggle in the East, not one political system is pitted against another, not one view of life is fighting another, but that culture, civilization, and human decency make a stand against the diabolical principle of a sub-human world."

And then another quote in the next paragraph:

"It was only the Fuehrer's decision to strike in time that saved our homeland from the fate of being overrun by those sub-human creatures, and our men, women, and children from the unspeakable horror of being their prey."

In the next broadcast I want to quote from, 10th of July, 1941, in the first paragraph, Fritzsche speaks of the inhuman deeds committed in various controls by the Soviet Union, and he states that one upon seeing the evidence of those deeds committed comes -- and here I quote -- "***finally to make the holy resolve to give his aid in the final destruction of those who are capable of such dastardly acts."

And then quoting again, the last paragraph:

"The Bolsehvist agitators make no effort to deny that in towns, thousands, in the villages, hundreds, of corpses of men, women and children have been found,

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who had been either killed or tortured to death. Yet the Bolshevik agitators allege that this was not done by Soviet Commissars but by German soldiers. Now we Germans know our soldiers. No German woman, father or mother requires proof that their husband or their son cannot have committed such atrocious acts."

Now, evidence already in the record or shortly to be offered in this case by our Soviet colleagues will prove that representatives of these Nazi conspirators did not hesitate to exterminate Soviet soldiers and civilians by scientific mass methods. These inciting remarks by Fritzsche make him an accomplice in these crimes because his labeling of the Soviet peoples as members of a "sub-human world" seeking to "exterminate" the German people, and similar desperate talk, helped these propaganda diatribes fashion the psychological atmosphere of utter and complete unreason and the hatred which instigated and made possible these atrocities in the East.

Although we cannot say that Fritzsche directed that ten thousand or one hundred thousand persons be exterminated, it is enough to pause on this questi Without these incitements of Fritzsche, how much harder it would have been for these conspirators to have effected the conditions which made possible the extermination of millions of people in the East.

THE PRESIDENT: Would that be a convenient time to break off?

(Whereupon, a recess was called at 1125 hours.)

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Fritsche encouraged and affirmed and glorified the policy of the Nazi conspirators in ruthlessly exploiting the occupied countries. Again I read an excerpt from his radio broadcast of the 9th of October 1941, found at page 2102 and 2103, of the BBS translation. I would like to cut it down, but it is one of those long German sentences that just can not be broken down:

"Today we can only say: Blitzkrieg or no--this German thunderstorm has cleansed the atmosphere of Europe. It is quite true that the dangers threatening us were eliminated one after the other with lightning speed; but in these lightning blows which shattered England's allies on the Continent, we saw not a proof of the weakness, but a proof of the strength and superiority of the Fuehrer's gift as a statesman and military leader; a proof of the German peoples' force; we saw the proof that no opponent can stand up to the courage, discipline, and readiness for sacrifice displayed by the German soldier; and we are particularly grateful for these lightning, unmatched victories, because --as the Fuehrer emphasized last Friday--they give us the possibility of embarking on the organization of Europe and of lifting of the treasures"-- I would like to repeat that--"lifting of the treasures of this old continent, already now in the middle of war, without it being necessary for millions and millions of German soldiers to be on guard, fighting day and night along this or that threatened frontier; and the possibilities of this continent are so rich that they suffice for any need of peace or war."

Concerning the exploitation of foreign countries, Fritsche states himself, at paragraph thirty-nine of his affidavit:

"The utilization of the productive capacity of the occupied countries for the strengthening of the war potential, I have openly and gloriously praised, chiefly because the competent authorities put at my disposal much material, especially on the voluntary placement of manpower."

Now, Fritsche was an arduous propagandist indeed if he gloriously praised the exploitation policy of the German Reich, chiefly or especially because the competent authorities gave him a sales talk on the voluntary placement of manpower.

I come now to Fritsche as the high commander of the entire German radio system. Fritsche continued as the head of the German Press Division until

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after the conspirators had begun the last of their aggressions. In November 1942 Goebbels created a new position, that of Plenipotentiary for the Political Organization of the Greater German Radio, a position which Fritsche was the first and the last to hold. In paragraph thirty-five, Document No. 3469-PS, the Fritsche affidavit, Fritsche narrates how the entire German Radio and Television System was organized under his supervision. That is at page twenty-nine of your document book. He states:

"My office practically represented the high command of German radio."

THE PRESIDENT: And where is that?

CAPTAIN SPRECHER: That is in paragraph thirty-five--

THE PRESIDENT: I am told it is the last line of paragraph thirty-six--"My office practically represented the high command--"

CAPTAIN SPRECHER: I am very grateful to Your Honors.

As special Plenipotentiary for the Political Organization of the Greater German Radio, Fritsche issued orders to all the Reich propaganda offices by teletype. These were used in conforming the entire radio apparatus of Germany to the desires of the conspirators.

Goebbels customarily held an eleven o'clock conference with his closest collaborators within the Propaganda Ministry.. When both Goebbels and his undersecretary, Dr. Naumann, were absent, Goebbels, after 1943, entrusted Fritsche with the holding of this eleven o'clock press conference.

In Document No. 3255-PS the Court will find Goebbels' praise of Fritsche's broadcasts. This praise was given in Goebbels' introduction to a book by Fritsche called, "War to the War Mongers." I would like to offer the quotation in evidence as U.S.A. Exhibit No. 724, from the Rundfunk Archiv, at page eighteen of Your Honors' document book. This is Goebbels speaking:

"Nobody knows better than I how much work is involved in those broadcasts, how many times they were dictated within the last minutes to find some minutes later a willing ear by the whole nation." So we have it from Goebbels himself that the entire German nation was prepared to lend willing ears to Fritsche, after he had made his reputation on the radio.

The rumor passed that Fritsche was "His Master's Voice" (Die Stimme Seines Herren). This is certainly borne out by Fritsche's functions. When

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Fritsche spoke on the radio it was indeed plain to the German people that they were listening to the high command of the conspirators in this field.

Now, Fritsche is not being presented by the prosecution as the type of conspirator who signed decrees or as the type of conspirator who sat in the inner councils planning all of the overall grand strategy of these conspirators. The function of propaganda is, for the most part, apart from the field of such planning. The function of a propaganda agency is somewhat more analogous to an advertising agency or public relations department, the job of which is to sell the product and to win the market for the enterprise in question. Here the enterprise, we submit, was the Nazi conspiracy. In a conspiracy to commit fraud, the gifted salesmen of the conspiratorial group is quite as essential and quite as culpable as the master planners, even though he may not have contributed substantially to the formulation of all the basic strategy, but rather contributed to the artful execution of this strategy.

In this case the prosecution most emphatically contends that propaganda was a weapon of tremendous importance to this conspiracy. We further content that the leading propagandists were major accomplices in this conspiracy, and further, that Fritsche was a major propagandist.

When Fritsche entered the Propaganda Ministry, the most fabulous "lie factory" of all time, and thus attached himself to this conspiracy, he did this with a more open mind than most of these conspirators who had committed themselves at an earlier date, before the seizure of power. He was in a particularly strategic position to observe the frauds committed upon the German people and upon the world by these conspirators.

The Tribunal will recall that in 1933, before Fritsche took his party oath of unconditional obedience and subservience to the Fuehrer, and thus abdicated his more or less responsibility to these conspirators, he had observed at first hand the operations of the storm troopers and the Nazi race pattern in action. When, notwithstanding this, Fritshce undertook to bring the German news agencies in their entirety within Fascist control, he learned from the inside, indeed from Goebbels' own lips, much of the cynical intrigue and many of the bold lies against opposition groups within and without Germany. He observed, for example,

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the opposition journalists, a profession to which he had previously been attached, being forced out of existence, crushed to the ground--either absorbed or eliminated. He continued to support the conspiracy. He learned from day to day the art of intrigue and quackery in the process of perverting the German nation, and he grew in prestige and influence as he practiced this art.

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The Tribunal will also recall that Fritsche had said that his predecessor Berndt fell from the leadership of the German Press Division partly because he over-played his hand by the successful but blunt and overdone manipulation of the Sudetenland propaganda. Fritsche stepped into the gap which had been caused by the loss of confidence of both the editors and the German people, and Fritsche did his job well.

No doubt Fritsche was not as blunt as the man he succeeded, but Fritsche's relative shrewdness and subtlety, his very ability to be more assuring and "to find," as Goebbels said, "willing ears of the whole nation," these things made him the more useful accomplice of these conspirators.

Nazi Germany and its press went into the actual phase of war operations with Fritsche at the head of the particular propaganda instrument controlling the German press and German news, whether by the press or by radio. In 1942, when Fritsche transferred from the field of the press to the field of radio, he was not removed for bungling, but only because Goebbels needed him then most in the field of radio. Fritsche is not in the dock as a free journalist, but as an efficient controlled Nazi propagandist, a propagandist who helped substantially to tighten the Nazi stranglehold over the German people, a propagandist who made the excesses of these conspirators more palatable to the consciences of the German people themselves, a propagandist who cynically proclaimed the barbarous racism which is at the very heart of this conspiracy, a propagandist who coldly quoted humble Germans to blind fury against people they were told by him were sub-human and guilty of all the suffering, of German suffering, which indeed these Nazis themselves had invited.

In conclusion, I wish only to say this. Without the propaganda apparatus of the Nazi State it is clear that the world, including Germany, would not have suffered the catastrophe of these years, and it is because of Fritsche's able role on behalf of the Nazi

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conspirators and their deceitful and barbarous practices in connection with the conspiracy that he is called to account before this International Tribunal.

SIR DAVID MAXWELL-FYFE: May it please the Tribunal. It was intended that the next presentation would be by Colonel Griffith-Jones in the case of the Defendant Hess. I understand that the Tribunal has in mind that it might be better if that were left for the moment; if so, Major Harcourt Barrington is prepared to make the presentation with regard to the Defendant von Papen.

THE PRESIDENT: Yes. We understood that the Defendant Hess's Counsel could not be present today, and therefore it was better to go on with one of the others.

SIR DAVID MAXWELL-FYFE: If your Lordship please, then Major Harcourt Barrington will deal with the presentation against the Defendant von Papen.

MAJOR HARCOURT BARRINGTON: My Lords, I understand that the court interpreters have not got the proper papers and document books up here yet, but they can get them in a very few minutes. Would your Lordship prefer that I should go on or wait until they have got them?

THE PRESIDENT: Very well. Go on then.

MAJOR BARRINGTON: May it please the Tribunal. It is my duty to present the case against the Defendant von Papen. Before I begin I would like to say that the documents in the document books are arranged numerically and not in the order of presentation, and that the English document books are paged in red chalk at the bottom of the page.

THE PRESIDENT: Does that mean that the French and the Soviet are not?

MAJOR BARRINGTON: My Lord, we did not prepare French and Soviet document books.

The Defendant von Papen is charged primarily, as are all the

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other Defendants, with the guilt of the conspiracy itself. The proof of this charge of conspiracy will emerge automatically from the proof of the four allegations.

THE PRESIDENT: Major Barrington, the French members of the Tribunal have no document books at all.

MAJOR BARRINGTON: My Lord, there should be a German document book for the French member. I understand it is now being fetched. Should I wait until it arrives?

THE PRESIDENT: I think you can go on.

MAJOR BARRINGTON: The Defendant Papen is charged primarily with the guilt of conspiracy, and the proof of this charge of conspiracy will emerge automatically from the proof of the four allegations specified in Appendix "A" of the Indictment. These are as follows.

(1) He promoted the accession of the Nazi conspirators to power.

(2) He participated in the consolidation of their control over Germany.

(3) He promoted the preparations for war.

(4) He participated in the political planning and preparation of the Nazi conspirators for wars of aggression, etc.

Broadly speaking, the case against von Papen covers the period from the 1st of June, 1932, to the conclusion of the Anschluss in March 1938.

So far in this trial, almost the only evidence specifically implicating von Papen has been evidenced in regard to his activities in Austria. This evidence need only be summarized now. But if the case against von Papen rested on Austria alone, the Prosecution would be in the position of relying on a period during which the essence of his task was studied plausibility and in which his whole purpose was to clothe his operations with a cloak of sincerity and innocent respectability. It is therefore desirable to put the

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evidence already given in its true perspective by showing in addition the active and prominent part he played for the Nazis before he went to Austria.

Papen himself claims to have rejected many times Hitler's request that he should actually join the Nazi Party. Until 1938 this may indeed have been true, for he was shrewd enough to see the advantage of maintaining, at least outwardly, his personal independence. It will be my object to show that, despite his facade of independence, Papen was an ardent member of this conspiracy, and in spite of warnings and rebuffs was unable to resist its fascination.

In the submission of the Prosecution, the key to von Papen's activities is that, although perhaps not a typical Nazi, he was an unscrupulous political opportunist and ready to fall in with the Nazis when it suited him. He was not unpractised in

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duplicity, and viewed with an apparent indifference the contradictions and betrayals which his duplicity inevitably involved. One of his chief weapons was fraudulent assurance.

Before dealing with the specific charges, I will refer to Document 2902-PS, which is on page 38 of the English document book, and I put it in as GB Exhibit 233. This is von Papen's own signed statement showing his appointments. It is not in chronological order, but I will read the relevant parts as they come. I need not read the whole of it. Beginning with paragraph 1 the Tribunal will note that this statement is written by Dr. Kubischok, Counsel for von Papen, although it is signed by von Papen himself.

Paragraph 1: "Von Papen many times rejected Hitler's request --

THE PRESIDENT: Don't go too fast. Better wait until they say they have got the documents.

MAJOR BARRINGTON: "Von Papen many times rejected Hitler's request to join the NSDAP. Hitler simply sent him the golden Party badge. In my opinion, legally speaking, he did not thereby become a member of the Party."

Interposing there, My Lord, the fact that he was officially regarded as having become a member in 1938 will be shown by a document which I shall refer to later.

Going on to paragraph 2: "From 1933 to 1945 von Papen was a member of the Reichstag."

Paragraph 3: "Von Papen was Reichschancellor from the 1st of June, 1932, to the 17th of November, 1932. He carried on the duties of Reichschancellor until his successor took office, until the 2nd of December, 1932."

Paragraph 4: "On the 30th of January, 1933, von Papen was appointed Vice-Chancellor. From the 30th of June, 1934" -- which was the date of the blood purge -- "he ceased to exercise official duties. On that day he was placed under arrest. Immediately after his release on the 3rd of July 1934, he went to the Reichschancellory to hand in his resignation to Hitler." The rest of that paragraph I need not read. It is an argument which concerns the authenticity or otherwise of his signature as it appears in the Reichsgesetzblatt to certain decrees in August, 1934. I am prepared to agree with his contention that his signature on those decrees may not have been correct

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and may have been a mistake. He admits holding office only to the 3rd of July, 1934.

He was, as the Tribunal will also remember, by virtue of being Reichschancellor, a member of the Reichscabinet.

Going on to paragraph 5: "On the 13th of November, 1933, von Papen became Plenipotentiary for the Saar. This office was terminated under the same circumstances described under paragraph 4."

The rest of the document I need not read. It concerns his appointments to Vienna and Ankara, which are matters of history. He was appointed Minister to Vienna on the 26th of July, 1934, and recalled on the 4th of February, 1938, and he was Ambassador in Ankara from April 1939 until August 1944.

The first allegation against the Defendant von Papen is that he used his personal influence to promote the accession of the Nazi conspirators to power. From the outset von Papen was well aware of the Nazi program and Nazi methods. There can be no question of his having encouraged the Nazis through ignorance of these facts. The official NSDAP program was open and notorious: it had been published in Mein Kampf for many years; it had been published and republished in the Yearbook of the NSDAP and elsewhere. The Nazis made no secret of their intention to make it a fundamental law of the state. This has been dealt with in full at an earlier stage of the trial.

During 1932 von Papen as Reichschancellor was in a particularly good position to understand the Nazi purposes and methods, and, in fact, he publicly acknowledged the Nazi menace. Take, for instance, his Muenster speech on the 28th of August 1932. This is Document 3314-PS, on page 49 of the English document book, and I now put it in as GB Exhibit 234, and I quote two extracts at the top of the page:

"The licentiousness emanating from the appeal of the leader of the National Socialist movement does not comply very well with his claims to governmental power. I do not concede him the right to regard the mere minority following his banner solely as the German nation and treat all our fellow countrymen as free game."

Take also his Muenster speech of the 13th of October, 1932. That is on page 50 of the English document book, Document No. 3317-PS, which I now put in as GB Exhibit 235, and I will simply read the last extract on the page:

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"In the interest of the entire nation, we decline the claim to power by parties which want to own their followers body and soul and which want to put themselves as a party or a movement over and above the whole nation."

I do not rely on those random extracts to show anything more than that he had, in 1932, clearly addressed his mind to the inherent lawlessness of the Nazi philosophy. Nevertheless, in his letter to Hitler of the 13th of November, 1932, which I shall quote more fully later, he wrote of the Nazi movement as, I quote, "So great a national movement --"

THE PRESIDENT: Where is this?

MAJOR BARRINGTON: This is in a letter which I shall quote in a few minutes, My Lord, a letter to Hitler of the 13th of November, 1932. He wrote:

"So great a national movement, the merits of which for people and country I have always recognized in spite of necessary criticisms."

So variable and so seemingly contradictory are von Papen's acts and utterances regarding the Nazis that it is not possible to present the picture of Papen's part in this infamous enterprise unless one first reviews the steps by which he entered the Party. It then becomes clear that he threw himself, if not wholeheartedly, yet with cool and deliberate calculation, into the Nazi conspiracy.

I shall enumerate some of the principal steps by which Papen fell in with the Nazi conspiracy.

As a result of his first personal contact with Hitler, von Papen as Chancellor rescinded, on the 14th of June, 1932, the decree passed on the 13th of April, 1932, for the dissolution of the Nazi para-military organizations, the SA and the SS. He thereby rendered the greatest possible service to the Nazi Party, inasmuch as it relied upon its para-military organizations to beat the German people into submission. The decree rescinding the dissolution of the SA and the SS is shown in Document D-631, on page 64 of the document book, and I now put it in as GB-236. It is an extract from the Reichsgesetzblatt, which was an omnibus decree. The relevant passage is in paragraph 29:

"This order comes into operation from the day of announcement. It takes the place of the order of the Reich President for the safeguarding of the state authority."

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The date there is a mistake. It should be the 13th of April, 1932.

THE PRESIDENT: Which page of the document is it?

MAJOR BARRINGTON: I am sorry, sir; it is page 64. And the date shown there should not be the 3rd of May, 1932; it should be the 13th of April, 1932. That was the decree which had previously dissolved the Nazi paramilitary organisations under the government of Chancellor Bruening. At the bottom of the page the

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Tribunal will see the decree -- the relevant parts of the decree of the 13th of April reproduced. At the beginning of paragraph 1 of that decree it said:

"All organizations of a military nature of the German National Socialist Labor Party will be dissolved with immediate effect, particularly storm detachments SA and the protective detachments SS."

This rescission by von Papen was done in pursuance of a bargain made with Hitler which is mentioned in a book called "Dates from the History of the NSDAP" by Dr. Hans Voltz, a book published with the authority of the NSDAP. It is already an exhibit, US Exhibit 592. The extract I want to quote is on page 59 of the document book, and it is Document No.3463-PS. I quote an extract from page 41 of the little book:

"28th of May" -- that was in 1933, of course. "In view of the imminent fall of Bruening, at a meeting between the former deputy of the Prussian Center Party, Franz von Papen, and the Fuehrer in Berlin, first personal contact in Spring, 1932, the Fuehrer agrees that a Papen cabinet should be tolerated by the NSDAP, provided that the prohibitions imposed on the SA uniforms and demonstrations be lifted and the Reichstag dissolved."

It is difficult to imagine a less astute opening gambit for a man who was about to become Chancellor than to reinstate this sinister organization which had been suppressed by his predecessor. This action emphasizes the characteristic duplicity and insincerity of his public condemnations of the Nazis which I quoted a few minutes ago.

Eighteen months later he publicly boasted that at the time of taking over the chancellorship he had advocated paving the way to power for what he called the "young fighting liberation movement." That will be shown in Document 3375-PS, which I shall introduce in a few minutes.

Another important step was when, on the 20th of July, 1932, he accomplished his famous coup d'etat in Prussia which removed the Braun-Severing Government and united the ruling power of the Reich and Prussia in his own hands as Reichskommissar for Prussia. This is now a matter of history It is mentioned in Document D-632, which I now introduce as GB 237. It is on page 65 of the document book. This document is, I think, a semi-

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biography on a series on public men.

Papen regarded this step, his coup d'etat in Prussia, as a first step in the policy later pursued by Hitler of coordinating the states with the Reich, which will be shown in Document 3357, which I shall come to later.

The next step, if the Tribunal will look at Document D-632, on page 65 of the document book, the last four or five lines at the bottom of the page, was the Reichstag elections of the 31st of July, which were the result of von Papen's disbandment of the Reichstag on the 4th of June, which was made in pursuance of the bargain that I mentioned a few minutes ago and strengthened enormously the NSDAP, so that von Papen offered to the leader of the now stronger party his participation in the government as Vice-Chancellor Adolf Hitler rejected this offer on the 13th of August.

The new Reichstag, which assembled on the 30th of August, was disbanded by the 12th of September. The new elections brought about a considerable loss to the NSDAP, but did not strengthen the government parties, so that Papen's government retired on the 17th of November 1932 after unsuccessful negotiations with the party leaders.

My Lord, I shall wish to quote a few more extracts from that biography, but it is a mere catalog of events. Perhaps Your Lordship would allow me to return to it at an appropriate time or convenient time.

So far as those negotiations mentioned just now in the biography concern Hitler, they involved an exchange of letters in which von Papen wrote to Hitler, on the 13th of November, 1932. That letter is Document D-633, on page 68 of the English document book, and I now put it in as GB 238. I propose to read a part of this letter, because it shows the positive effort made by Papen to ally himself with the Nazis, even in face of further rebuffs from Hitler. I read the third paragraph. I should tell the Tribunal that there is some underlining in the English translation of that paragraph which does not occur in the German text:

"A new situation has arisen through the elections of November the 6th, and at the same time a new opportunity for all nationalist elements to be concentrated anew. The Reich President has instructed me to find out by conversations with the leaders of the individual parties concerned whether

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and how far they will be prepared to support the carrying out of the political and economic program on which the Reich Government has embarked. In spite of the National Socialist press calling it a naive attempt for Reichschancellor von Papen to confer with the people concerned in the nationalist concentration and that there can only be one answer, namely, no negotiations with Papen, I should consider it neglecting my duties, and I would be unable to justify it to my own conscience, if I did not approach you in this matter. I am quit aware from the papers that you are maintaining your demands to be entrusted with the Chancellor's Office, and I am equally aware of the continued existence of the reason for the decision of August the 13th. I need not assure you again that I myself do not come into this matter at all. All the same, I feel that the leader of so great a national movement, the merits of which for people and country I have always recognized, in spite of necessary criticisms, should not refuse to enter into discussions on the situation and the decisions required with that German politician who at present bears the full responsibility. We must attempt to forget the bitterness of the elections and to place the welfare of the country which we, both of us, serve, above all other considerations."

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Hitler replied on the 16 November 1932 in a long letter, laying down terms which were evidently unacceptable to von Papen, since he resigned the next day and was succeeded by von Schleicher. That document is D 634, put in as part of Exhibit GB 238, as it is part of the same correspondence. I need not read from the letter itself.

Then came the meetings between Papen and Hitler in January, 1933, in the house of von Schroeder and Ribbentrop, culminating in von Schleicher being succeeded by Hitler as Reichschancellor on 30 January 1933. Referring back again to the biography, on page 66 of the document book, there is an account of the meeting at Schroeder's house, the second paragraph on the page:

"The meeting with Hitler, which took place in the beginning of January, 1933, in the house of the banker Baron von Schroeder, in Cologne, is due to his initiative"--that means, of course Papen's initiative--"although von Schroeder was the mediator. Both von Papen and Hitler made later public statements about this meeting (press of 6 January 1933).

"After the rapid downfall of von Schleicher on the 28th of January 1933, the Hitler-von Papen-Hugenberg-Seldte Cabint was formed on the 30th January, 1933 as a government of national solidarity. In this cabinet von Papen held the office of Vice-Chancellor and Reich Kommisar for Prussia."

The meetings at Ribbentrop's house, at which Papen was also present, have been mentioned by Sir David Maxwell-Fyfe (Document D 472) which was GB 130. I now wish to introduce into evidence an affidavit by von Schroeder, but I understand that Doctor Kubuschok wishes to take an objection to this. Perhaps before Doctor Jubuschok takes his objection it might help if I said, quite openly, that Schroeder is now in custody, and according to my informaation heis at Frankfurt; so that physically he undoubtedly could be called. Perhaps I might also say at this moment that there would be no objection from the Prosecution's point of view to interrogatories being administered to von Schroeder on the subject matter of this affidavit.

DR. KUBUSCHOK: I object to the reading of the affidavit of Schroeder. I know that in individual cases the Tribunal has permitted the reading of affidavits. This occurred under Article 19 of the Charter, which is based on the proposition that the trial should be conducted as speedily as possible, and that for this reason the rules of ordinary court procedure should be modified to some extent. What is most important therefore is the speediness

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of the trial. But in this case the reading of the affidavit cannot be approved for that reason.

The case is quite analagous to that case that took place on the 14th of December in the matter of Schuschnigg's affidavit. Schroeder is in the vicinity. Schroeder was apparently brought to the neighbourhood of Nurnberg for the purposes of this trial. The affidavit was taken down on 5 December. He could be brought here at any time. The reading of the affidavit would have this consequence: that I would have to rely on it and on several other witnesses. Schroeder describes a series of facts in his affidavit, which is of such an extent as to be definitive, but which, however, if it is once read into the testimony of the trial, must also be discussed by the defense in the pursuance of their duty.

The affidavit discusses internal political matters, and does so fallaciously. For this reason misunderstandings would be brought up in the trial which would be obviated by the hearing of a witness. I believe, therefore, that the testimony of a witness should be the only way in which Schroeder's testimony is submitted to the Tribunal, since otherwise a large number of witnesses will have to be called along with the reading of Schroeder's

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affidavit.

THE PRESIDENT: Have you finished?

DR. KUBUSCHOK: Yes.

THE PRESIDENT: Do you wish to make any observation?

MR. BARRINGTON: Yes, I do, my Lord.

The Tribunal has been asked to exclude this affidavit, using as a precedent the decision on von Schuschnigg's affidavit. I think I am correct in saying that von Schuschnigg's affidavit was excluded as an exception to the general rule on affidavits which the Tribunal laid down earlier the same day when Mr. Messersmith's affidavit was accepted. Perhaps your Lordship will allow me to read from the transcript the Tribunal's decision on the affidavit of Messersmith.

THE PRESIDENT: Mr. Messersmith was in Mexico, was he not?

MR. BARRINGTON: This is so, My Lord, yes.

THE PRESIDENT: So that the difference between him and Schuschnigg in that regard was very considerable.

MR. BARRINGTON: In that regard, but what I was going to say was this, My Lord: In ruling on Messersmith's affidavit your Lordship said:

"In view of those provisions -- that is Article 19 of the Charter -- the Tribunal holds that affidavits can be presented, and that in the present case it is a proper course. The question of the probative value of the affidavit as compared with the witness who has been cross-examined would, of course, be considered by the Tribunal, and if at a later stage the Tribunal thinks the presence of a witness is of extreme importance, the matter can be reconsidered.

And your Lordship added: "If the defense wish to put interrogatories to the witness, they will be at liberty to do so."

Now, in the afternoon of that day, when Schuschnigg's affidavit came up --

THE PRESIDENT: (interposing): Which day was this?

MR. BARRINGTON: This was the 28th of November, My Lord. It is on page 473 of the transcript, the Messersmith affidavit, and 523 is the Schuschnigg affidavit:

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Now, when the objection was taken to the Schuschnigg affidavit, the objection was put in these words:

"Today when the resolution was announced in respect of the use to be made of the written affidavit of Mr. Messersmith, the Court was of the opinion that in a case of very great importance possibly it would take a different view of the matter"; and then defense counsel went on to say: "As it is a case of such an important witness, the principle of direct evidence must be adjered to."

THE PRESIDENT: Have you a reference to a subsequent occasion on which we heard Mr. Justice Jackson upon this subject, when Mr. Justice Jackson submitted to us that on the strict interpretation of Article 19 we were bound to admit any evidence which we deemed to have probative value?

MR. BARRINGTON: Mr Lord, I haven't got that reference.

THE PRESIDENT: Why don't you call this witness?

MR. BARRINGTON: I say, quite frankly, I was coming on to that.

This witness is in a position of being an alleged co-conspirator, and I don't make any secret of the fact that for obvious reasons the Prosecution wouldn't desire to call him as a witness, and I put this affidavit forward as an admission by a co-conspirator. I admit that it is not an admission made in pursuance of the conspiracy, but I submit that the Tribunal, not being bound by technical rules of evidence, may take this.

THE PRESIDENT: Yes?

MR. BARRINGTON: I submit that as the Tribunal is not bound by technical rules of evidence, this affidavit may be accpeted in evidence as an

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admission by a co-conspirator; and as I said before, there will be no objection to administering interrogatories on the subject matter of this affidavit, and indeed, the witness would be available to be called as a defense witness if required.

That is all I have to say on that, My Lord.

THE PRESIDENT: There would be no objection to bringing the witness here for the purpose of cross-examination upon the affidavit?

MAJOR BARRINGTON: I don't think there could be any objection if it were confined to the subject matter of the affidavit.

THE PRESIDENT: How could you object, for instance, to the defendant himself applying to call the witness?

MAJOR BARRINGTON: As I said, I don't think there could be any objection to that, my Lord.

THE PRESIDENT: The result would be the same, wouldn't it? If the witness were called for the purpose of cross-examination, then he could be asked other questions which were not arising out of the matter in the affidavit. If the defendant can call him as his own witness, there can be no objection to the cross-examination going outside the matter of the affidavit.

MAJOR BARRINGTON: Of course he couldn't be cross-examined by the Prosecution in that event, my Lord.

THE PRESIDENT: You mean you would ask him questions in the examination, but they would not take the form of cross-examination?

MAJOR BARRINGTON: That is what I mean, my Lord.

THE PRESIDENT: You mean that you would prefer that he should be called for the defendants rather than be cross-examined outside the subject matter of the affidavit?

MAJOR BARRINGTON: Yes.

THE PRESIDENT: Is there anything you wish to add or not?

MAJOR BARRINGTON: There is nothing I wish to add.

THE PRESIDENT: It is time for us to adjourn. We will consider the matter.

(Whereupon at 1250 hours the Court adjourned to 1400 hours).

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Official transcript of the International Military Tribunal, in the matter of: The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering, et al, Defendants, sitting at Nurnberg, Germany, on 23 January, 1946, 1425-1700, Lord Justice Lawrence, presiding.

DR. HORN (Counsel for Defendant Ribbentrop): In the place of Dr. von Rorhscheidt, defense counsel for Hess, I would like to make the following declaration.

Dr. von Rohrscheidt has been the victim of an accident. He has broken his ankle. The accused Hess has asked me to notify the Tribunal that from now on until the end of the trial, he will take advantage of his right under the statute to defend himself. The reason that he wants to do it for the whole length of the trial is to be found in the fact that his counsel will not be kept informed of the proceedings of the Court.

THE PRESIDENT: The Tribunal will consider the oral application which has just been made to it on behalf of the Defendant Hess.

As to the objection to the affidavit of von Schroeder which was made this morning by counsel for the Defendant von Papen, the Tribunal does not propose to lay down any general rule about the admission of affidavit evidence. But in the particular circumstances of this case, the Tribunal will admit the affidavit in question, but will direct that if the affidavit is put in evidence, the man who made the affidavit, von Schroeder, must be presented, brought here immediately for cross-examination by the defendant's counsel. When I say immediately I mean as soon as possible.

MR. BARRINGTON: My Lord, I will not introduce this affidavit.

THE PRESIDENT: Yes, Mr. Barrington.

MR. BARRINGTON: My Lord, before coming on to that affidavit, I last read a passage from the biography about the meeting at von Schroeder's house, and I asked the Tribunal to deduce from that extract from the biography that it was at that meeting that a discussion took place between von Papen and Hitler, which led up to the Government of Hitler in which von Papen served as Vice Chancellor,

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So that now at that point the defendant von Papen was completely committed to going along with the Nazi Party, and with his eyes open and of hiw own initiative he had helped materially to bring them into power.

The second allegation against the defendant von Papen is that he participated in the consolidation of Nazi control over Germany. In the first critical year and a half of the Nazi consolidation von Papen, as Vice Chancellor, was second only to Hitler in the cabinet which carried out the Nazi program.

The process of consolidating the Nazi control of Germany by legislation has been fully dealt with earlier in this trial. The high position of von Papen must have associated him closely and directly with such legislation.

In July 1934, Hitler expressly thanked him for all that he had done for the coordination of the Government of the National Revolution. That will appear in Document 2799-PS. In fact, although I shall read from that document in a minute, the document has been introduced to the Court by Mr. Alderman.

Two important decrees may be mentioned specially, as actually bearing the signature of von Papen. First, the decree relating to the formation of special courts, dated the 21st of March 1933 for the trial of all cases involving political matters. The Tribunal has already taken judicial notice of this decree. The reference to the transcript is Page 30 of the 22nd of November, afternoon session.

This decree was the first step in the Nazification of the German judiciary. In all political cases it abolished fundamental rights, including the right of appeal, which had previously characterized the administration of German criminal justice.

On the same date, the 21st of March 1933, von Papen personally signed the amnesty decree liberating all persons who had committed murder or any other crime between the 30th of January and the 21st of March 1933 in the National Revolution of the German people. That document is 2059-PS, and is on Page 30 of the English document book. I read Section 1.

THE PRESIDENT: I don't think you need read the decrees if you will summarize them.

MR. BARRINGTON: If your Lordship pleases, I will ask you to take judicial

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notice of that decree.

THE PRESIDENT: Yes.

MR. BARRINGTON: As a member of the Reich Cabinet, von Papen was, in my submission, responsible for the legislation carried through even when the decrees did not actually bear his signature. I shall mention as examples two categories of legislation in particular in order to show by reference to his own previous and contemporaneous statements that they were not matters of which he could say that as a respectable politican he took no interest in them.

First, the civil service. As a public servant himself, von Papen must have had a hard but apparently successful struggle with his conscience when associating himself with the sweeping series of decrees for attaining Nazi control of the civil service. This has been dealt with on Page 30 of the transcript of the 22nd of November in the afternoon session, and page 257. In this connection I refer the Tribunal to Document 351-PS, which is on Page 1 of the document book. It is US Exhibit 378, and it is the minutes of Hitler's first cabinet meeting on the 30th of January 1933, and I read from the last paragraph of the minutes on Page 5 of the document book in the middle of the paragraph:

"The Deputy of the Reichs Chancellor and the Reich Kommissar for the State of Prussia suggested that the Reich Chancellor in an interview should state at the earliest opportunity that the rumors about the danger of inflation and the rumors about the danger to the rights of civil servants are untrue."

Even if this was not meant to suggest to Hitler the giving of assurance, at the best he emphasizes the indifference with which von Papen later saw the civil servants betrayed.

Secondly, the decrees for the integration of the Federal States with the Reich. These again have been dealt with earlier in the Trial, page 29 of the transcript of 22 November, afternoon session.

The substantial effect of these decrees was to abolish the states and to put an end to federalism and any possible retarding influence which it might have upon the centralization of power in the Reich cabinet. The importance of this setp, as well as the role played by Papen, is reflected in the exchange of letters between Hindenburg, von Papen, in his capacity as Reich Commissar

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for Prussia, and Hitler, in connection with the recall of the Reich Commissar and the appointment of Goering to the position of Minister President of Prussia, I refer to Document 3557-PS, which is on Page 52 of the English document book, and I now put it in as GB-239.

In tendering his resignation on the 7th of April 1933, von Papen wrote to Hitler, and I read from the document:

"With the draft of the law for the coordination of the States with the Reich, passed today by the Reich Chancellor, legislative work has begun which will be of historical significance for the political development of the German state. The step taken by the Reich Government, which I headed at the time, is now crowned by this new interlocking of the Reich. You, Herr Reich Chancellor, will now, as once Bismarck, be able to coordinate in all points the policy of the greatest of German states with that of the Reich. Now that the new law enables you to appoint a Prussian Prime Minister, I ask you to inform the Reich President that I return to his hands my post of Reich Commissar for Prussia."

I would like to read also the letter which Hitler wrote to Hindenburg in transmitting this resignation. Hitler wrote:

"Vice-chancellor von Papen has sent a letter to me which I enclose for your information. Herr von Papen already informed me within the last few days that he agreed with Minister Goering to resign on his own volition, as soon as the unified conduct of the governmental affairs in the Reich and in Prussia would be assured by the new law on coordination of policy in the Reich and the States.

"On the eve of the day when the new law on the institution of Reich governors was adopted, Herr von Papen considered this aim as having been attained and he requested of me to undertake the appointment of the Prussian Prime Minister, when at the same time he would offer his full time services in the Reich Government.

"Herr von Papen, in accepting the commission for the Government of Prussia, in these difficult times since 30 January, has rendered a very meritorious service to the realization of the idea of coordinating the policy in the Reich and the States. His collaboration in the Reich

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cabinet, for which he now offers all his strength, is infinitely valuable; my relationship to him is such a heartily friendly one, that I sincerely rejoice at the great help I shall thus receive."

Yet it was only five weeks before this that on the 3rd of March 1933, von Papen had warned the electorate at Stuttgart against abolishing federalism.

I will now read from Document 3313-PS, which is on page 48 of the English document book, and which I now introduce as GB-240, about the middle of the third paragraph. This is an extract from von Papen's speech at Stuttgart. He said:

"In addition, federalism will protect us from centralism, that organizational form which focuses all living strength of a nation like a burning mirror on to one point. No nation is less adaptable to being governed centralistically than the German nation."

Earlier, at the time of the elections in the autumn of 1932, von Papen as Chancellor, visited Munich. The Frankfurter Zeitung of the 12th of October 1932, commented on his policy. I refer to Document 3318-PS on page 15 of the English document book, which I introduce as GB-241. The Frankfurter Zeitung commented:

"Von Papen claimed that it had been his aim from the very beginning of his tenure in office to build a new Reich for and with the various States. The Reich Government is taking a definite federalist attitude. Its slogan is not a dreary centralism or unitarianism."

That was in October 1932. All that was now thrown overboard in deference to his new master.

I now come to the Jews. In March 1933 the entire cabinet approved a systematic state policy of persecution of the Jews. This has already been described to the Tribunal. The reference to the transcript is pages 1442 and 2940.

Only four days before the boycott was timed to begin--

THE PRESIDENT: What did you say about 2940?

MR. BARRINGTON: Page 2940 of the transcript.

THE PRESIDENT: Oh, yes.

MR. BARRINGTON: Only four days before the boycott was timed to begin, with all ferocity, to borrow the words of Dr. Goebbels, von Papen wrote a

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radiogram of reassurance to the Board of Trade for German-American Commerce in New York, who had expressed their anxiety to the German Government about the situation. His assurance -- which I now put in as Document D-635, and it will be GB-242, on page 73 of the English document book -- his assurance was published in the New York Times on the 28th of March 1933, and it contained the following sentence which I read from about the middle of the page. This document is the last but one in the German document book.

"Reports circulated in America and received here with indignation about alleged tortures of political prisoners and mistreatment of Jews deserve strongest repudiation. Hundreds of thousands of Jews, irrespective of nationality, who have not taken part in political activities, are living here entirely unmolested."

This is a characteristic--

DR. KUBUSCHOK (Counsel for von Papen): The article in the New York Times goes back to a telegram of the accused von Papen, which is contained in the document book one page ahead. The English translation has a date of the 27th of March. This date is an error. The German text which I received shows that it is a question of a weekend letter, which according to the figures on the German document, was sent on the 25th of March. This difference in time is of particular importance for the following reason:

In effect, on the 25th of March nothing was known yet concerning the Jewish boycott, which Goebbels then announced for the first of April. The accused von Papen could, therefore, on the 25th of March, not point out these smaller incidents as he does in the telegram. In any case, the conclusion of the indictment follows that the contents of the telegram were a lie.

THE PRESIDENT: Mr. Barrington, have you got the original of that?

MR. BARRINGTON: The original is here, My Lord, yes. It is quite correct that there are some figures at the top, which, though I hadn't recognized it, might indicate that it was dispatched on the 25th.

THE PRESIDENT: And when was the meeting of the cabinet which approved the policy of persecution of the Jews?

MR. BARRINGTON: Well, My Lord, I can't say. It was some time within the last few days of March, but it might have been on the 26th. I can have

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that checked up.

THE PRESIDENT: Very well.

DR. KUBUSCHOK: May I clarify that matter by saying that the cabinet meeting in which the Jewish question was discussed took place at a much later date, and that in this cabinet meeting, cabinet members, among others the accused von Papen, condemned the Jewish boycott. I shall submit the minutes of the meeting as soon as my motion has been granted.

THE PRESIDENT: I don't know what you mean by your motion being granted. Does the counsel for prosecution say whether he persists in his allegation or whether he withdraws it?

MR. BARRINGTON: I will say this. Subject to a checking up of the date when the cabinet meeting took place--

THE PRESIDENT: Well, you can do that at the adjournment and let us know in the morning.

MR. BARRINGTON: If your Lordship pleases.

At this point I will just say this: That it was, as the Tribunal has already heard, common knowledge at the time that the Nazi policy was anti-Jewish, and Jews were already in concentration camps, so I will leave it to the Tribunal to infer that at the time when that radiogram was sent, which I am prepared to accept as being the 25th of March, that von Papen did know of this policy of boycotting.

I will go further now that I am on this point, and I will say that von Papen was indeed himself a supporter of the anti-Jewish policy, and as evidence of this I will put in Document 2830-PS, which is on page 37A of the Document book, which I now introduce as GB-243. This is the last document in the German document book. I will read at Paragraph 4 in the English text. I think it is paragraph 5 in the German text. It begins:

"The following" -- this is a letter, My Lord, written by von Papen from Vienna on the 12th of May 1936 to Hitler on the subject of the Freiheitsbund. Paragraph 4 of the English text is as follows:

"The following incident is interesting. The Czech Legation secretary Dohalsky has made to Mr. Staud, leader of the Freedom Union, the offer, to make available to the Freedom Union every desired amount from the Czech Government, which he would need for the strengthening of his fight against

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the Heimwehr. His only condition is that the Freedom Union would guarantee to take a stand directed against Germany. Mr. Staud has simply refused this offer. It is shown by that how one even in the enemy's camp already evaluates the new grouping of Forces. From that the further necessity results for us, to support as before this movement financially, and namely mostly in reference to the continuation of its fight against Jewry."

DR. KUBUSCHOK: I must point out here a difficulty which has apparently been caused by the translation. In the German text of the original concerning the forwarding it is said "concerning the fight against the Jewish race." This word "Mit Bezug" means that the money should be sent, concerning the sending of money, but that that should not be the real object, but that the Freedom League was not a league which forfeited Jews, but was a professional organization , and actually a member of that league had been Dollfuss. The words "Mit Bezug" means only that the sending of the money should get the certain designation because the money was sent to a legal organization. Money could not be sent from abroad to such an organization which is shown by the refusal of the checks. I would like to point out here that the words "in reference" could give the wrong impression and should preferably be translated by "referring." In any case I would like to point out that this was a camouflage in transferring the money.

THE PRESIDENT: I don't know which word you are referring to, but as I understand it the only purpose of referring to this letter was to show that von Papen was suggesting that a certain organization should be financially assisted in its fight against Jewry. That is the only purpose of referring to the letter. I don't know what you mean about some word being wrongly translated.

DR. KUBUSCHOK: That is exactly how the error originated. Not to combat the Jewish movement, the money was sent because that was not the object of this Christian Trade Union, but it was necessary to give a certain term in translating this in order to give that idea. The purpose was not to fight

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Jewry but elimination of another foreign influence, that means Czechoslovakia.

THE PRESIDENT: I should have thought myself that the point which might have been taken against you was that the letter was after the time with which you were then dealing.

MR. BARRINGTON: That is so, My Lord; it was not at the time of the previous one.

THE PRESIDENT: Yes, the previous one was marked 1933, and this was 193

MR. BARRINGTON: Oh yes. I only put it in, My Lord, to show it was by then, at any rate. If Your Lordship has any doubt as to the translation I would suggest that it might now be translated by the interpreter. We have the German original, a photostat.

THE PRESIDENT: I think you can have it translated again tomorrow; if necessary, you can have it gone into again then.

MR. BARRINGTON: Yes, My Lord.

I come now to the Catholic Church. The Nazi treatment of the church has been fully dealt with by the United States prosecution. In this particular field von Papen, the prominent Catholic, helps to consolidate the Nazi position both at home and abroad as perhaps nobody else could have done.

In dealing with the persecution of the church, Colonel Wheeler read to the Tribunal Hitler's assurance given to the church on the 23rd of March, 1933, in Hitler's speech on the Enabling Act, an assurance which resulted in the well-known Fulda Declaration of the German bishops. That was document 3387-PS, which was U.S. Exhibit 566. This deceitful assurance of Hitler's appears to have been made at the suggestion of von Papen eight days earlier at the Reich cabinet at which the Enabling Act was discussed, on the 15th of March, 1933. I refer to document 2962-PS, which is U.S. Exhibit 578, and it is on page 40 of the English document book. I read from page 44. That is at the bottom of page 6 of the German text, and the minutes say:

"The Vice-chancellor and Reich Commissar for Prussia stated that it was of decisive importance to coordinate into the new state the masses

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standing behind the Parties. The question of the incorporation of political Catholicism into the new State was of particular importance." That was a statement made by von Papen at the meeting at which the Enabling Act was discussed prior to Hitler's speech on the Enabling Act, in which he gave his assurance to the church.

THE PRESIDENT: Which page is that on in the document book?

MR. BARRINGTON: It is page 44, My Lord, about the middle.

THE PRESIDENT: Yes.

MR. BARRINGTON: On the 20th of July, 1933, Papen signed the Reich Concordat negotiated by him with the Vatican. The Tribunal has already taken judicial notice of this as document 3260-A-PS. The signing of the Concordat, like Hitler's upon an inspired speech on the Enabling Act, was only an interlude in the church policy of the Nazi conspirators. The policy of re-assurances was followed by a long series of violations which eventually resulted in Papal denunciation in the Encyclical "Mit brennender Sorge," which is 3476-PS, U.S. Exhibit 567.

Papen maintains that his actions regarding the church were sincere, and he has asserted during interrogations that it was Hitler who sabotaged the Concordat. If von Papen really believed in the very solemn undertakings given by him on behalf of the Reich to the Vatican, I submit it is strange that he, himself a Catholic, should have continued to serve Hitler after all those violations and even after the Papal Encyclical itself. I will go furth I will say that Papen was himself involved in what was virtually, if not technically, a violation of the Concordat. The Tribunal will recollect the elocution of the Pope, dated the 2nd of June 1945, which is 3268-PS, U.S. Exhibit 356, from which on page 1647 of the transcript Colonel Storey read the Pope's own summary of the Nazis' bitter struggle against the church. The very first item the Pope mentioned is the dissolution of Catholic organizations and, if the Tribunal will look at document 3376-PS, on page 56 of the English document book which I now put in as GB-244 and which is an extract from "Das Archiv", they will see that in September 1934 von Papen ordered -- and I say "ordered" advisedly -- the dissolution of the Union of Catholic Germans, of which he was at the time the leader. The text of

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"Das Archiv" reads as follows:

"The Reich Leadership Party announces the seal of dissolution of the Union of Catholic Germans.

"Since the Reich Party Leadership, through its department for spiritual peace, increasingly and immediately administers all cultural problems and those concerning the relationship of State and Churches, the tasks at first delegated to the Union of Catholic Germans are now included in those of the Reich Party Leadership in the interest of a stronger coordination.

"Vice-chancellor von Papen, up to now the Leader of the Union of Catholic Germans, declared about the dissolution of this organization that it was done upon his suggestion, since the attitude of the national socialist State toward the Christian and Catholic Church had been explained often and unequivocally through the Leader and Chancellor himself."

I said that von Papen ordered the dissolution, although the announcement said it was a seal of dissolution on his suggestion, but I submit that such a suggestion from one in Papen's position was equivalent to an order, since by that date it was common knowledge that the Nazis were dropping all pretense that rival organizations might be permitted to exist.

After nine months' service under Hitler, spent in consolidating the Nazi control, von Papen was evidently well content with his choice. I refer to document 3375-PS, page 54 of the English document book, which I put in as GB-245. On the 2nd of November 1933, speaking at Essen from the same platform as Hitler and Gauleiter Terboven, in the course of the campaign for the Reichstag election and the referendum concerning Germans leaving the League of Nations , von Papen declared:

"Ever since Providence called upon me to become the pioneer of national resurrection and the rebirth of our homeland, I have tried to support with all my strength the work of the national socialist movement and its leader; and just as I at the time of taking over the Chancellorship" -- that was in 1932 -- "have advocated to pave the way to power for the young fighting liberation movement, just as I on January 30 was selected by a gracious fate to put the hands of our Chancellor and Fuehrer into the hand of our beloved Field Marshal, so do I today again feel the obligation to say to the German

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people and all those who have kept confidence in me:

"The kind Lord has blessed Germany by giving it in times of deep distres a leader who will lead it, through all distresses and weaknesses, through all crises and moments of danger, with the sure instinct of the statesman into a happy future."

And then the last sentence of the whole text on page 55:

"Let us in this hour say to the Fuehrer of the new German, that we believe in him and his work."

By this time the cabinet of which von Papen was a member and to which he had given all his strength had abolished the civil liberties; had sanctioned political murder committed in aid of Naziism's seizure of power, had destroyed all rival political parties; had enacted the basic laws for abolition of the political influence of the Federal states; had provided the legislative basis for purging the Civil Service and judiciary of anti-Nazi elements; and had embarked upon a state policy of persecution of the Jews.

Papen's words are words of hollow mockery:

"The kind Lord has blessed Germany--"

The third allegation against the defendant Papen is that he promoted preparations for war. Knowing as he did the basic program of the Nazi Party, it is inconceivable that as Vice-chancellor for a year and a half he could have been dissociated from the conspirators' warlike preparations; he, whom Hitler wrote to Hindenburg on the 10th of April 1933, his collaboration in the Reich Cabinet for which he now offers all his strength is infinitely valuable.

The fourth allegation against Papen is that he participated in the political planning and preparations for wars of aggression in violation of international treaties. In Papen's case this allegation is really thestory of the Anschluss. His part in that was a preparation for wars of aggressio in two senses: First, that the Anschluss was the necessary preliminary step to all the subsequent armed aggressions; secondly, that even if it can be contended that the Anschluss was in fact achieved without aggression, it was planned in such a way that it would have been achieved byaggression if that had been necessary.

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I need do no more than summarize Papen's Austrian activities since the whole story of the Anschluss has been described to the Tribunal already, though with the Tribunal's permission I would like to read again two short passages of a particularly personal nature regarding Papen. But, before I deal with Papen's activitiesin Austria, there is one matter that I feel I ought not to omit to mention to the Tribunal.

On the 16th of June, 1934, Papen made his remarkable speech at Marburg University. I do not propose to put it in evidence, nor is it in the document book because it is a matter of history, and in what I say I do not intend to commit myself in regard to the motives and consequences of his speech which are not free from mystery, but I will say this: That as far as concerns the subject matter of Papen's Marburg speech, it was an outspoken criticism of the Nazis. One must imagine that the Nazis were justly angry and, although he escaped death in the blood purge twelve days later, he was put under arrest for three days. Whether this arrest originally intended to end in execution or whether it was to protect him from the purge as one too valuable to be lost, I do not now inquire. After his release from arrest he, not unnaturally, resigned the Reich Chancellorship. Now the question that arises -- and this is why I mention thematter at this point -- is why after these barbaric events did he ever go back into the service of the Nazis again? What an opportunity missed! If he had stopped then he might have saved the world much suffering. Suppose that Hitler's own Vice-Chancellor, just released fromarrest, had defied the Nazis and told the world the truth; there might never have been a reoccupation of the Rhineland; there might never have been a war. But I must not speculate. The lamentable fact is that he slipped back; he succumbed again to the fascination of Hitler.

After the murder of Chancellor Dolfuss only three weeks later, on the 25th of July 1934, the situation was such as to call for the removal of the German Minister Rieth, and for the prompt substitution of a man who was an enthusiast for Anschluss with Germany, who could be tolerant of Nazi objectives and methods, but who could lend an aura of respectability to

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official German representation in Vienna. This situation is described in the transcript at pages 478 amd 489. Hitler's reaction to the murder of Dolfuss was immediate. He chose his man as soon as he heard the news. The very next day, the 26th of July, he sent von Papen a letter of appointmer This is on page 37 of the English document book; it is 2799-PS and it has already been judicially noticed by the Tribunal. Mr. Alderman read the letter, and I only wish now to refer to the personal remarks towards the end.

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Hitler in this letter, after reciting his version of the Dolfuss affair and expressing his desire that Austrian-German relations should be brought again into normal and friendly channels, says in the third paragraph:

"For this reason I request you, Dear von Papen, to take over this important and unlimited confidence ever since we have worked together in the cabinet."

And the last paragraph of the letter:

"Thanking you once more for all that you once did for the coordination of the Government of the National Revolution and since then together with us for Germany."

THE PRESIDENT: This might be the time we might break off for ten minutes.

(A recess was taken from 1530 to 1540 hours.)

Your Honor, I just read from a letter about the appointment which Hitler sent to von Papen on the 26 July 1934, the letter of appointment as Minister in Vienna. This letter, which, of course, was made public, naturally did not disclose the real intent of von Papen's appointment. The actual mission of von Papen was stated frankly shortly after his arrival in Vienna in the course of a private conversatin he had with the American Minister, Mr. Messersmith. I quote from Mr. Messersmith's affidavit, which is 1760-PS, USA Exhibit No.57, and it is on page 22 of the Document Book, just about half way through the second paragraph: Mr. Messersmith said:

"When I did call on von Papen in the German Legation, he greeted me with 'Now you are in my Legation and I can control the conversation.' In the baldest and most cynical manner he then proceeded to tell me that all of Southeastern Europe, to the borders of Turkey, was Germany's natural hinterland, and that he had been charged with the mission of facilitating German economic and political control over all this region for Germany. He blandly and directly said that getting control of Austria was to be the first step. He definitely stated that he was in Austria to undermine and weaken the Austrian Government and from Vienna to work towards the weakening of the Governments in the other states to the South and Southeast. He said that he intended to use his reputation as a good Catholic to gain influence with certain Austrians, such as Cardinal Innitzer, towards that end."

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Throughout the earlier period of his mission to Austria, von Papen's activity was characterized by the assiduous avoidance of any appearance of intervention. His true mission was re-affirmed with clarity several months after its commencement, when he was instructed by Berlin that during the next two years nothing can be undertaken which will give Germany external political difficulties, and that every appearance of German intervention in Austrian affairs must be avoided, and, von Papen himself said to Berger-Waldenegg, an Austrian Foreign Minister: "Yes, you have your French and English friends now, and you can have your independence a little longer." All of that was told in detail by Mr. Alderman, again quoting from Mr. Messe rsmith's affidavit, and which is in the transcript at pages 492, 506 and 507.

Throughout this period, the Nazi movement was gaining strength in Austria without openly admitted German intervention, and Germany needed more time to consolidate its diplomatic position. These reasons for German policy were frankly expressed by the German Foreign Minister von Neurath in conversation with the American Ambassador to France, and, this was read into the transcript at page 520 by Mr. Alderman from Document L-150, USA Exhibit No. 65.

The defendant von Papen accordingly restricted his public activity to the normal ambassadorial function of cultivating all respectable elements in Austria, and ingratiating himself in these circles. Despite his facade of strict non-intervention, von Papen remained in contact with subversive elements in Austria. Thus in his report to Hitler dated 17 May 1935, he advised concerning Austrian-Nazi strategy as proposed by Captain Leopold, Leader of the illegal Austrian Nazis, the object of which was to trick Dr. Schuschnigg into establishing an Austrian coalition government with the NSDAP. This is Document No. 2247-PS, USA Exhibit No. 64, and it is in the transcript at pages 516 to 518. It is on page 34 of the English Document Book. I don't want to read this letter again, but I would like to call attention of the Tribunal to the first line of what is called the second paragraph in the English Text, where von Papen talking about this strategy of Captain Leopold says, "I suggest that we take an active part in this game."

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I mention also in connection with the illegal organizations in Austria, Document No. 812-PS, USA No. 61, which the Tribunal will remember was a report from Rainer to Buerckel, and which is dealt with in the transcript at pages 498 to 505.

Eventually the agreement of 11 July 1936 between Germany and Austria was negotiated by von Papen. This is already in evidence as TC-22, GB-Exhibit No. 20. The Public form of this agreement provides that while Austria in her policy should regard herself as a German state, yet, Germany would recognize the full sovereignty of Austria, and would not exercise direct or indirect influence on the inner political order of Austria. More interesting was the secret part of the agreement, revealed by Mr. Messersmith, which ensured the Nazis an influence in the Austrian cabinet, and participation in the political life of Austria. This has already been read into the transcript at page 522 by Mr. Alderman.

After the agreement, the defendant, von Papen continued to pursue his policy by maintaining contact with the illegal Nazis by trying to influence appointments to strategic cabinet positions, and by attempting to secure official recognition of Nazi front organizations. Reporting to Hitler shortly after the agreement of 11 July 1936, he summarized his program for normalizing Austrian-German relations in pursuant of the agreement of 11 July. This is Document 2246-PS, USA Exhibit No. 67, on page 33 of the English Document Book.

The Tribunal will recall that he recommended about half way down that extract, he recommended as a guiding principle continued, patient psychological manipulations, with slowly intensified pressure directed at changing the regime, and then he mentioned his discussion with the government officials.

Then he mentions his discussions with the illegal party and says that he is aiming at the corporative representation of the movement in the Fatherland Front, but nevertheless refraining from putting National Socialists in important positions for the time being.

There is no need to go over again the events that led up to the meeting of Schuschnigg with Hitler in February 1939, which von Papen arranged and which he attended, and to the final invasion of Austria in March 1938. It is enough to quote from the Biography again on Page 66 of the document book. It is about two-thirds of the way down the page:

"After the events of March 1938 which caused Austria's incorporation into

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the German Reich, von Papen had the satisfaction to be present at the Fuehrer's side when the entry into Vienna took place, having just been admitted on 14 February 1938 into the Party in recognition of his valuable collaboration and having received the Golden Party Badge from the Fuehrer."

And the Biography continues:

"At first, von Papen retired to his estate Wallerfangen in the Saar district but soon the Fuehrer required his services again in that he on the 18 April 1939, appointed von Papen German Ambassador in Ankara."

Thus, the fascination of serving Hitler triumphed once again, and this time it was at a date when the seizure of Czechoslovakia could have left no shadow of doubt in Papen's mind that Hitler was determined to pursue his program of aggression.

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One further quotation from the Biography Page 66, the last sentence of the last paragraph but one:

"After his return to the Reich—" That was in 1944--"von Papen was awarded the Knight's Cross of the War Merit Order with Swords."

In conclusion, I draw the Tribunal's attention again to the fulsome praises which Hitler publicly bestowed upon von Papen for his services, especially in the earlier days. I have given two instances where Hitler said "his collaboration is infinitely valuable", and again, "You posses my most complete and unlimited confidence."

Papen, the ex-Chancellor, the soldier, the respected Catholic, Papen the diplomat, Papen, the man of breeding and culture—there was the man who could overcome the hostility and antipathy of those respectable elements who barred Hitler's way. Papen was--to repeat the words by Sir Hartly Shawcross in his opening speech--"One of the men whose cooperation and support made the Nazi Government of Germany possible."

That concludes my case. Sir David Maxwell-Fyfe will now follow with the case of von Neurath.

SIR DAVID MAXWELL-FYFE: May it please the Tribunal, the presentation against the defendant von Neurath falls into five parts, and the first of these is concerned with the following positions and honors which he held.

He was a member of the Nazi Party from 30 January 1937 until 1945, and he was awarded the Golden Party Badge on 30 January 1937.

He was General in the SS. He was personally appointed Gruppenfuehrer by Hitler September 1937 and promoted to Obergruppenfuehrer on 21 June 1943.

He was Reich Minister of Foreign Affairs under the Chancellorship of the defendant von Papenfrom 2 June 1932 and under the Chancellorship of Hitler from 30 January 1933 until he was replaced by the defendant von Ribbentrop on 4 Febuary 1938.

He was Reich Minister from 4 Febuary 1938 until May 1945.

He was President of the Secret Cabinet Council, to which he was appointed on 4 Febuary 1938, and he was a member of the Reich Defense Council.

He was appointed Reichs Protector for Bohemia and Moravia from 18 March 1939 until he was replaced by the defendant Frick on 25 August, 1943.

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He was awarded the Adlerorden by Hitler at the time of his appointment as Reich Protector. The defendant Ribbentrop was the only other German to receive this decoration.

If the Tribunal please, these facts are collected in Document 2972-PS, which is US Exhibit No. 19, and in that document, which is signed by the defendant and his counsel, the defendant makes comments on certain of these matters with which I should like to deal.

He says that the award of the Golden Party Badge was made on 30 Januaryy1937 against his will and without his being asked.

I point out that this defendant not only refrained from repudiating the allegedly unwanted honor, but after receiving it, attended

meetings at which wars of aggression were planned, actively participated in the rape of Austria and tyranized over Bohemia and Moravia.

The second point is that his appointment as Gruppenfuehrer was also against his will and without his being asked.

On that point, the Prosecution submits that the wearing of the uniform, the receipt of the further promotion to Obergruppenfuehrer and the actions against Bohemia and Moravia must be considered when the defendant's submission is examined.

He then says that his appointment as Foreign Minister was by Reichspresident von Hindenburg.

We submit we need not do more than draw attention to the personalities of the defendant von Papen and Hitler and to the fact that President von Hindenburg died in 1934. This defendant continued as Foreign Minister until 1938.

He then says that he was an inactive Minister from the 4th of February 1938 until May 1945.

At the moment, attention is drawn to the activities which will be mentioned below and to the terrible evidence as to Bohemia and Moravia which willbe forthcoming from our friend, the Soviet Prosecutor.

This defendant's next point is that the Secret Cabinet Council never sat or conferred.

I point out to the Tribunal that that was described as a select committee of the Cabinet for the deliberation of foreign affairs, and the Tribunal will find that description in Document 1774-PS, which I now put in as Exhibit GB 246. This is an extract from a book by a well-known author, and on Page 2 of the document book -- the document book is numbered in red at the top right hand corner -- the first page of that document, in about the seventh line from thebottom of the page, they will see that among the bureaus subordinated to the Fuehrer for direct counsel and assistance, number four is the Privy Cabinet Council; President: Reich-Minister Frh. von Nuerath.

And if the Tribunal will be kind enough to turn over to page 4, about ten lines from the top, they will see the paragraph beginning:

"A privy cabinet council, to advise the Fuehrer in the basic problems of foreign policy, has been created by the decree of 4 February 1938," and

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a reference is given. "This privy cabinet council is under the direction of Reich-Minister v. Neurath, and includes the Foreign Minister, the Air Minister, the Deputy Commander for the Fuehrer, the Propaganda Minister, the Chief of the Reich-Chancellery, the Commanders-in-Chief of the Army and Navy and the Chief of the Supreme Command of the Armed Forces. The privy cabinet council constitutes a select staff of collaborators of the Fuehrer which consists exclusively of members of the Government of the Reich; thus, it represents a select committee of the Reich Government for the deliberation on foreign affairs."

In order to have the formal composition of the body, that is shown in document 2031-PS, which is Exhibit GB 217. I believe that has been put in, I needn't read it again.

The next point that the defendant makes as to his offices is that he was not a member of the Reich Defense Council.

If I may very shortly take that point by stages, I remind the Tribunal that the Reich Defense Council was set up soon after Hitler's accession to power on 4 April 1933, and the Tribunal will find a note of that point in document 2261-PS, US Exhibit 24, and they will find that on the top of page 12 of the document book there is a reference to the date of the establishment of the Reich Defense Council.

The Reich Defense Council is also dealt with in Document 2986-PS, United States Exhibit 409, which is the affidavit of the Defendant Frick, which the Tribunal will find on page 14. In about the middle of that short affidavit, Defendant Frick says:

"We were also members of the Reich Defense Council which was supposed to plan preparations in case of war which later on were published by the Ministerial Council for the Defense of the Reich."

Now, that the membership of this Council included the Minister for Foreign Affairs, who was then the Defendant von Neurath, is shown by Document EC-177, United States Exhibit 390. If the Tribunal will turn to page 15 of the document book, they will find that document, and at the foot of the page, the composition of the Reich Defense Council, permanent members including the Minister for Foreign Affairs. That document is dated "Berlin, 22 May 1933" which was during this Defendant's tenure of that office. That

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is the first stage.

The functioning of this Council, with a representative of this Defendant's department, von Beulow, present, is shown by the minutes of the 12th meeting on 14 May 1936. That is Document EC-407, which I put in as GB-247. The Tribunal will find at page 21 that the minutes are for the 14th of May 1936, and the actual reference to an intervention of von Beulow is in the middle of page 22.

Then, the next period was after the secret law of 4 September, 1938. This Defendant was, under the terms of that law, a member of the Reich Defense Council by virtue of his office as president of the Secret Cabinet Council. That is shown by the document 2194-PS, U.S. Exhibit 36, which the Tribunal will find at page 24, and if you will look at page 24, you will see that the actual copy which was put in evidence was enclosed in a letter addressed to the Reich Protector in Bohemia and Moravia on the 6th of September, 1939. It is rather curious that the Reich Protector for Bohemia and Moravia is now denying his membership in the Council when the letter enclosing the law is one addressed to him.

But if the Tribunal will be good enough to turn on to page 28 which is still that document, the last words on that page describe the tasks of that Council and say, "The task of the Reich Defense Council consists, in peacetime, of the decision on all measures for the preparation of Reich defense, and the gathering together of all forces and means of the nation according to the directions of the Leaders and ReichsChancellor.. The tasks of the Council in wartime will be especially determined by the Leader and ReichsChancellor."

If the Tribunal will turn to the next page, they will see that the permament members of the Council are listed, and then the seventh one is the President of the Secret Cabinet Council, who was, again, this Defendant.

I submit that that deals, for every relevant period, with this Defendant's statement that he was not a member of the Reich Defense Council.

The second broad point that the Prosecution makes against this Defendant is that in assuming the position of Minister of Foreign Affairs in Hitler's Cabinet, this Defendant assumed charge of a foreign policy committed to breach of treaties.

We say first that the Nazi Party had repeatedly and for many years made known its intention to overthrow Germany's international commitments, even at the risk of war. We refer to Sections 1 and 2 of the Party Program, which, as the Tribunal has heard, was published year after year. That is on page 32 of the document book. It is Document 1708-PS, U. S. Exhibit 255.

I just remind the Tribunal of these poimts 1 and 2:

"1. We demand the unification of allGermans in the Greater Germany on the basis of the right of self-determination of peoples.

"2. We demand equality of rights for the German people in respect to the other nations; abrogation of the peace treaties of Versailles and St. Germain."

But probably clearer than th is the statement contained in Hitler's speech at Munich on the 15th of March, 1939, and the Tribunal will find one of the references to that on page 40. And, if I may warn the Tribunal, in the document book page 40 appears directly after page 34. I'M sorry, some of the pages have got out of order. But on page 40, at the middle of the page, you will find a reference to that speech. It begins:

"My foreign policy had identical aims. My program was to abolish the Treaty of Versailles. It is futile nonsense for therest of the world to pretend today that I did not reveal this program until 1933 or 1935 or 1937. Instead of listening to the foolish chatter of emigrees, these gentlemen would have been wiser to read what I have written thousands of times."

It is futile nonsense for foreigners to raise that point. It would be still morefutile for Hitler's Foreign Minister to suggest that he was ignorant of the aggressive designs of the policy. But I remind the Tribunal that the acceptance of force as a means of solving international problems and achieving the objectives of Hitler's foreign policy must have been known to anyone as closely in touch with Hitler as the Defendant von Neurath, and I remind the Tribunal, simply by reference to the passages from Mein Kampf which were quoted by my friend Mr. Elwyn Jones, especially those towards the end of the book, pages 552, 553 and 554.

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So that the Prosecution say that by the acceptance of this foreign policy, the Defendant von Neurath assisted and promoted the accession to power ofthe Nazi Party.

The third broad point is that in his capacity as Minister of Foreign Affairs this Defendant directed the international aspects of the first phase of the Nazi conspiracy, the consolidation of control in preparation for war.

As I have already indicated, from his close connection with Hitler this Defendant must have known the cardinal points of Hitler's policy leading up to the outbreak of the World War, as outlined in retrospect by Hitler in his speech to his military leaders on the 23rd of November, 1939.

This policy had two facets: internally, the establishment of rigid control; externally, the program to release Germany from its international ties.

The external program had four points:

1. Secession from the disarmament conference;
2. The order to re-arm Germany;
3. The introduction of compulsory military service; and
4. The remilitarization of the Rhineland.

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If the Tribunal will look at page 35 - which I am afraid they will find after page 41 - in the document book, at the end of the first paragraph they will find these points very briefly set out, and perhaps I might just read that passage. It is Document 789-PS, U.S. Exhibit 23 - about ten lines before the break:

"I had to reorganize everything beginning with the mass of the people and extending it to the armed forces. First, reorganization of the interior, abolishment of appearance of decay and defeatist ideas, education to heroism. While reorganizing the interior, I undertook the second task, to release Germany from its international ties. Two particular characteristics are to be pointed out: secession from the League of Nations and denunciation of the disarmament conference. It was a hard decision. The number of prophets who predicted that it would lead to the occupation of the Rhineland was large, the number of believers was very small. I was supported by the nation, which stood firmly behind me, when I carried out my intentions. After that, the order for rearmament. Here a ain there were numerous prophets who predicted misfortunes, and only a few believers. In 1935 the introduction of compulsory armed service. After that, militarization of the Rhineland, again a process believed to be impossible at that time. The number of people who would trust in me were very small. Then the beginning of the fortification of the whole country, especially in the West."

Now, these are summarized in four points. The defendant von Neurath participated directly and personally in accomplishing each of these four aspects of Hitler's foreign policy, at the same time officially proclaiming that these measures did not constitute steps toward aggression.

The first is a matter of history. When Germany left the disarmament conference this defendant sent telegrams dated the 14th of October, 1933, to the President of the Conference - and that will be found in the document, Dokumente Der Deutschen Politik, on page 94 of the first volume for that year. Similarly this defendant made the announcement of Germany's withdrawal from the League of Nations on the 21st of October, 1933. That again will be found in the official documents. These are referred to in the transcript

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of this Tribunal on page 402 and 450, and I remind the Tribunal of the complementary documents of military preparation which of course were read, and which are documents C.140, U.S. Exhibit 51, the 25th of October, 1933, and C.153, U.S. Exhibit 43, the 12th of May 1934. These have already been read and I merely collect them for the memory and assistance of the Tribunal.

The second point of the rearmament of Germany: When this defendant was Foreign Minister, on the 10th of March 1935, the German Government officially announced the establishment of the German air force. Document TC 44 GB Exhibit 11, already referred to. On the 21st of May 1935, Hitler announced a purported unilateral repudiation of the Naval, Military and Air clauses of the Treaty of Versailles and the Treaty for the Restoration of Friendly Relations with the United States, and that will be found in Document 2288-PS, U.S. Exhibit 38, which again has already been read. On the same day the Reich Cabinet, of which this defendant was a member, enacted the secret "Reich Defense Law" creating the office of Plenipotentiary General for War Economy," afterwards described by the Wehrmacht armament expert as "the cornerstone of German rearmament." The reference to the law is document 2261-PS, U.S. Exhibit 24, letter of von Blomberg dated the 24th of June, 1935, enclosing this law, which is already before the Tribunal, and the reference to the comment on the importance of the law is document 2353-PS, U.S. Exhibit 35. Some of that has already been read, but if the Tribunal will be good enough to turn to page 52, where that appears, they will find an extract from page 35, and I might just give the Tribunal the last sentence:

The later orders were decreed in the Reich defense law of May 21, 1935, which was supposed to be published only in case of war, and was already declared valid for carrying out war preparations. As this law fixed the duties of the armed forces and the other Reich authorities in case of war, it was also the fundamental ruling for the development and activity of the war economy organization."

The third point is the introduction of compulsory military service. On the 16th of March 1935, this defendant signed the law for the organization of the armed forces which provided for universal military service and antici-

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pated a vastly expanded German army. This was described by the defendant Keitel as the real start of the large-scale rearmament program which followed. I will give the official reference in the Reichsgesetzblatt, year 1935, volume 1, teil 1, page 369; and the reference in the transcript, pages 454 and 455.

The fourth point was the remilitarization of the Rhineland. The Rhineland was reoccupied on the 7th of March 1936. I remind the Tribunal of the two complementary documents, 2289 PS, U.S. Exhibit 56, the announcement of this action by Hitler, and C.139, U.S. Exhibit 53, which is the "Operation Schulung," giving the military action which was to be taken if necessary. Again the reference to the transcript is page 458 to page 464. These were the acts for which the defendant shared responsibility from his position and from the steps which he took, but a little later he summed up his views on the actions detailed above in a speech before Germans abroad made on the 29th of August, 1937, of which I ask the Tribunal to take judicial notice, as it appears in Das Archiv, 1937, at page 650. But I quote a short portion of it that appears on page 72 of the document book:

"The unity of the racial and national will created through Nazism with unprecedented elan has made possible a foreign policy through which the bonds of the Versailles Treaty were slashed, freedom to arm regained and the sovereignty of the whole nation reestablished. We have again become master in our own home, and we have produced the means of power to remain henceforth that way for all times. The world should notice from Hitler's deeds and words that his aims are not aggressive war."

The world, of course, had not the advantage of seeing these various complementary documents of military preparation which I have had the opportunity of putting before the Tribunal.

The next section -- and the next point against this defendant - is that both as Minister of Foreign Affairs and as one of the inner circle of the Fuehrer's advisers on foreign political matters, this defendant participated in the political planning and preparation for acts of aggression against Austria, Czechoslovakia and other nations.

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If I might first put the defendant's policy in a sentence, I would say that it can be summarized as breaking one treaty only at a time. He himself put it - if I may so - slightly more pompously, but to the same effect in a speech before the Academy of German Law on the 30th of October 1937, which appears in Das Archiv, October 1937, page 921, and which the Tribunal will find in the document book on page 73. The underlining is mine:

"Out of the acknowledge of these elementary facts the Reich Cabinet has always interceded in favor of treating every concrete international problem within methods especially suited for it, not to complicate it unnecessarily by amalgamation with other problems and as long as problems between only two powers are concerned to choose the way for an immediate understanding between these two powers. We are in a position to state that this method has fully proved itself good not only in the German interest, but also in the general interest."

The only country whose interests are not mentioned are the other parties to the various treaties that were dealt with in that way; and the working unto that policy can really be shown by looking in tabular form at the actions of this defendant when he was Foreign Minister or at his immediate successor when he still purported to have influence.

In 1935 the action was directed against the Western Powers. That action was the rearmament of Germany. When that was going on another country had to be reassured. At that time it was Austria, with the support of Italy - which Austria still had up to 1935. And so you get the fraudulent assurance, the essence of the technique in that case, given by Hitler, on the 21st of May 1935. And that is shown clearly to be false, by the document which Mr. Alderman put in - I give the general reference to the transcript on pages 534 to 545. Then, in 1936, you have still got the action necessary against the Western Powers in the occupation of the Rhineland. You still have a fraudulent assurance to Austria in the Treaty of the 11th of July of that year, and that is shown to be fraudulent by the letters from the Defendant von Papen, United States Exhibit 64 and 67, one

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of which my friend Major Barrington has just referred to.

Then, in 1937 and 1938, you move on a step and the action is directed against Austria. We know what that action was. It was absorption, planned, at any rate, finally, at the meeting on the 5th of November, 1937, and action taken on the 11th of March, 1938.

Reassurance had to be given to the Western Powers, so you have the assurance to Belgium on the 13th of October, 1937, which was dealt with by my friend Mr. Roberts. The Tribunal will find the references in pages 1100 to 1126 of the transcript.

We move forward a year and the object of the aggressive action becomes Czechoslovakia. Or I should say we move forward six months to a year. There you have the Sudatenland obtained in September; the absorption of the whole of Bohemia and Moravia on the 15th of March, 1939.

Then it was necessary to reassure Poland, so an assurance to Poland is given by Hitler on the 20th of

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February, 1938, and repeated up to the 26th of September, 1938. The falsity of that assurance was shown over and over again in Colonel Griffith-Jones's speech on Poland, which the Tribunal will find in the transcript at pages 966 to 1060.

Then finally, when you want the action as directed against Poland in the next year, for its conquest, assurance must be given to Russia, and so a non-aggression pact is entered into on the 23rd of August, 1939, as shown by Mr. Alderman, at pages 1160 to 1216.

With regard to that tabular presentation, one might say, in the Latin tag, "res ipsa loquitur." But a quite frank statement from this Defendant with regard to the earlier part of that can be found in the account of his conversation with the United States Ambassador, Mr. Bullitt, on the 18th of May, 1936, which is on page 74 of the document book, document L-150, United States Exhibit 65, and if I might read the first paragraph after the introduction saying that they called on this Defendant, Mr. Bullitt says:

"Von Neurath said that it was the policy of the German Government to do nothing active in foreign affairs until "the Rhineland had been digested.' He explained that he meant that, until the German fortifications had been constructed on the French and Belgian frontiers, the German Government would do everything possible to prevent rather than encourage an outbreak by the Nazis in Austria and would pursue a quiet line with regard to Czechoslovakia. 'As soon as our fortifications are constructed and the countries of Central Europe realize that France cannot enter German territory at will, all those countries will begin to feel very differently about their foreign policies and a new constellation will develop,' he said."

I remind the Tribunal, without citing it, of the conversation referred to by my friend, Mr. Barrington, a short time ago, between the Defendant von Papen as Ambassador and Mr. Messersmith, which is very much to the same effect.

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Then I come to the actual aggression against Austria, and I remind the Tribunal that this Defendant was Foreign Minister.

First: during the early Nazi plottings against Austria in 1934.

The Tribunal will find these in the transcript at pages 475 to 489, and I remind them generally that that was the murder of Chancellor Dolfuss and the ancillary acts which were afterwards so strongly approved.

Secondly: when the false assurance was given to Austria on the 21st of May, 1935, and the fraudulent treaty made on the 11th of July, 1936.

References to these are TC-26, which is GB-19, and TC-22, which is GB-20. The reference in the transcript is at pages 544 and 545.

Thirdly: when the Defendant von Papen was carrying on his subterranean intrigues in the period from 1935 to 1937.

I again give the references so the Tribunal will have it in mind: document 2247-PS, United States Exhibit 64--letter dated 17 May, 1935--and United States Exhibit 67, document 2246-PS--1 September, 1936. The references in the transcript are pages 492, 516-18, 526-545 and 553-4.

This Defendant von Neurath was present when Hitler declared, at the Hoszbach interview on the 5th of November, 1937, that the German question could only be solved by force, and that his plans were to conquer Austria and Czechoslovakia. That is document 386-PS, United States Exhibit 25, which the Tribunal will find at page 82. If you will look at the sixth line of page 82, after the heading, you will see that one of the persons in attendance at this highly confidential meeting was the Reich Minister for Foreign Affairs, Freiherr von Neurath.

Without reading a document which the Tribunal have had referred

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to them more than once, may I remind the Tribunal that it is on page 86 that the passage about the conquest of Austria occurs, and if the Tribunal will look at "Case 3," the second sentence is, "For the improvement of our military political position, it must be our first aim in every case of entanglement by war to conquer Czechoslovakia and Austria simultaneously, in order to remove any threat from the flanks in case of a possible advance westwards."

That is developed on the succeeding page. The important point is that this Defendant was present at that meeting, and it is impossible for him after that meeting to say that he was not acting except with his eyes completely open and with complete comprehension as to what was intended.

Then the next point. During the actual Anschluss he received a note from the British Ambassador dated the 11th of March, 1938. That is document 3045-PS, United States Exhibit 127. He sent the reply contained in document 3287-PS, United States Exhibit 128. If I might very briefly remind the Tribunal of the reply, I think all that is necessary--and of course the Tribunal have had this document referred to them before--is at the top of page 93. I wish to call attention to two obvious untruths.

The Defendant von Neurath states in the sixth line, "It is untrue that the Reich used forceful pressure to bring about this development, especially the assertion, which was spread later by the former Chancellor Schuschnigg, that the German Government had presented the Federal President with a conditional ultimatum. It is a pure invention."

According to the ultimatum, he had to appoint a proposed candidate as Chancellor to form a Cabinet conforming to the proposals of the German Government. Otherwise the invasion of Austria by German troops was held in prospect.

"The truth of the matter is that the question of sending military or police forces from the Reich was only brought up when the

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newly formed Austrian Cabinet addressed a telegram, already published by the press, to the German Government, urgently asking for the dispatch of German troops as soon as possible, in order to restore peace and order and to avoid bloodshed. Faced with the immediately threatening danger of a bloody civil war in Austria, the German Government then decided to comply with the appeal addressed to it."

Well, as I said, my Lord, these are the two most obvious untruths, and all one can say is that it must have, at any rate, given this Defendant a certain macabre sort of humor to write that when the truth was as the Tribunal know it from the report of Gauleiter Rainer to Buerckel, which has been put in before the Tribunal as document 812-PS, United States Exhibit 61, and when they have heard, as they have at length, the transcripts of the Defendant Goering's telephone conversations with Austria on that day, which is document 2949-PS, United States Exhibit 76, and the entries of the Defendant's Jodl's diary for the 11th, 13th and 14th of February, which is document 1780-PS, United States Exhibit 72.

In this abundance of proof of the untruthfulness of these statements the Tribunal may probably think that the most clear and obvious correction is in the transcripts of the Defendant Goering's telephone conversations, which are so amply corroborated by the other documents.

The Prosecution submit that it is inconceivable that this Defendant who, according to the Defendant Jodl's diary -- may I ask the Tribunal just to look at page 116 so that they have this point quite clear? It is page 116 of the document book, the entry in the Defendant Jodl's diary for the 10th of March. It is the third paragraph, and it says:

"At 13.00 hours General Keitel informs Chief of Operational Staff and Admiral Canaris. Ribbentrop is being detained in London. Neurath takes over the Foreign Office."

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I submit that it is inconceivable when this Defendant had taken over the Foreign Office, was dealing with the matter and, as I shall show the Tribunal in a moment, co-operating with the Defendant Goering to suit the susceptibibilities of Czechs, that he should have been so ignorant of the truth of events and what really was happening as to write that letter in honor and good faith.

His position can be shown equally clearly by the account which is given of him in the affidavit of Messersmith, document 2385-PS, United States Exhibit 68. If the Tribunal will look at page 175 of the document book, I remind them of that entry which exactly describes the action and style of activity of this Defendant at this crisis. Two-thirds of the way down the page the paragraph beings:

"I should emphasize here in this statement that the men who made these promises were not only the dyed-in-the-wool Nazis, but more conservative Germans who already had begun to willingly lend themselves to the Nazi program.

"In an official dispatch to the Department of State from Vienna, dated October 10, 1935, I wrote as follows.

"'Europe will not get away from the myth that Neurath, Papen and Mackensen are not dangerous people and that they are diplomats of the old school. They are in fact servile instruments of the regime, and just because the outside world looks upon them as harmless they are able to work more effectively. They are able to sow discord just because they propagate the myth that they are not in sympathy with the regime.'"

THE PRESIDENT: The Tribunal will adjourn now.

(Whereupon at 17.00 hours the Hearing of the Tribunal adjourned, to reconvene on 24 January, 1946, at 10.00 hours.)